

WHY THE INTERNATIONAL SOCIETY OF STATES IS THREATENED BY THE
ISLAMIC STATE?

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ABSTRACT

This paper seeks to find systemic reasons that the Islamic State is considered a threat by the international society of states. For this purpose, I have used Hedley Bull's model for the international society of states; perhaps this should represent the paradigm of the English School of international relations. Three main modules are derived from this model to be taken into consideration. First, sovereignty as the core issue from the state-centric point of view. Second, norms and attributes of the units in the international society of states such as *Pacta sunt servanda*, application of force, mutual recognition of territorial integrity. Third, institutions of the international society of states such as International law. On the other hand, I have used primary resources from Al-Qaeda and the Islamic State to describe their worldview/paradigm and eventually explain why the two paradigms are in conflict. As a result of state-centric and systemic analysis, this paper concludes that the Islamic State is considered a threat for challenging the abovementioned modules. This challenge if not countered, could eventually culminate in reshaping the structure of the current system of international politics.

ÖZET

Bu çalışma IŞİD'in uluslararası devletler topluluğu tarafından bir tehdit olarak görülmesinin sistematik nedenlerini bulmaya çalışacaktır. Bu amaçla, çalışmada Hedley Bull'un uluslararası devletler topluluğu modeli kullanılmıştır; ki model uluslararası ilişkiler İngiliz Ekolü paradigmasını temsil etmektedir. Bu modelden üç temel modül alınmıştır. İlki, devlet merkezli egemenlik anlayışıdır. İkincisi, uluslararası devletler topluluğunda norm olarak Pacta sunt servanda, güç kullanımı, karşılıklı toprak bütünlüğü tanınması gibi öğelerin kullanılmasıdır. Üçüncüsü, uluslararası hukuk gibi uluslararası devletler topluluğunun kurumlarıdır. Ayrıca, bu çalışmada Al-Kaide ve IŞİD belgeleri gibi birincil kaynaklarından yararlanılarak bunların dünya görüşü/paradigmaları açıklanmaya çalışılmıştır ve paradigmlar arası çatışmanın nedenleri araştırılmıştır. Devlet merkezci ve sistematik analizin sonucu olarak, bu çalışmada IŞİD'in yukarıda bahsedilen modül için bir tehdit oluşturduğu savunulacaktır. Eğer karşı çıkılmazsa, bu iddia sonunda uluslararası siyaseti dönüştürmekle sonuçlanabilecektir.

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ACRONYMS

IIS	Islamic Iraq's State
ISIS	Islamic State in Iraq and Sham
IS	The Islamic State
UN	United Nations
NATO	The North Atlantic Treaty Organization
CIA	Central Intelligence Agency
ISIL	Islamic State of Iraq and the Levant(Sham)
ISIS	Islamic State of Iraq and the Sham
MP	Member of Parliament
RPG	Rocket-propelled grenade
FSA	Free Syrian Army
CTC	Combatting Terrorism Center
IS	The Islamic State
IRGC	Islamic Revolution Guards Corps
SCIRI	Islamic Supreme Council of Iraq
AQ	Al Qaeda
WMD	Weapons of Mass Destruction
CIL	customary International law
ICJ	International Court of Justice
ILA	International Law Association
UNSC	United Nations Security Council
TRNC	Turkish Republic of Northern Cyprus
OSCE	Organization for Security and Co-operation in Europe

GLOSSARY

<i>erga omnes</i>	Towards all
<i>ex factis jus oritur</i>	The law arises from the facts
<i>ius cogens</i>	Compelling law
<i>ius gentium</i>	Law of nations
<i>ius naturale</i>	Natural law
<i>Pacta sunt servanda</i>	Agreements must be kept

Table of Contents

CHAPTER 1: INTRODUCTION	1
CHAPTER 2: WHAT DRIVES AL-QAEDA AND THE ISLAMIC STATE TO MILITANCY?	14
2.1. Introduction	14
2.2. Islam and Politics and Policy	15
2.3. The Islamic Background of Al-Qaeda and the Islamic State	19
2.3.1. The Salafiyah Methodology	20
2.3.2. Takfiri Salafi	21
2.4. Militant/Jihadi Salafi, Jihad or Defense Mechanism	21
2.5. Subject of threat and threat perception of Al Qaeda and the Islamic State	23
2.6. Mujahideen’s paradigm	26
2.7. Conclusion	31
CHAPTER 3: THE ISLAMIC STATE VS. INTERNATIONAL SOCIETY OF STATES ..	34
3.1. Introduction	34
3.2. Sovereignty	36
3.3. State and Nation failure vis a vis Islamic State’s success	46
3.4. <i>Pacta sunt servanda</i> , application of force, mutual recognition of territorial integrity ...	66
3.5. Conclusion	79
CHAPTER 4: ISLAMIC STATE VS. INTERNATIONAL LAW	81
4.1. Introduction	81
4.2. Sharia Law vs. Customary International Law	81
4.3. De facto Statehood of the Islamic State	89
4.4. Islamic State’s statehood and legal challenges in the International Law	94
4.5. Conclusion	101
CHAPTER 5: CONCLUSION.....	102
REFERENCES	105
Chapter 1 & 2	105
Chapter 3	109
Chapter 4	114
BIBLIOGRAPHY	118

CHAPTER 1

INTRODUCTION

Syrian civil war apart from human catastrophe has developed a vibrant militancy that has dragged international military intervention in that state to the point that preoccupation of international community with militancy in Syria has overshadowed the humanitarian crisis. So much so that lives no longer matter as much as non-state military actors in Syria matter. This has not been the case only about Syria, but also Afghanistan, Iraq, Palestine, Yemen and other locations at different points of contemporary history. From the alphabet soup of military organizations around the globe, in 2001 Al-Qaeda came under the spotlight for September 11 attacks on twin towers of the World Trade Center and Pentagon. After the U.S. invasion of Iraq, the second organization coming under the spotlight was IIS (Islamic Iraq's State)ⁱ that later drew significant attention for its successive achievements both in Syria and Iraq while renaming itself ISIS (Islamic State in Iraq and Sham) and later the IS (the Islamic State) or Khilafah/Caliphate. Today, the international society of states is at war with the Islamic State. Although this war is justified on humanitarian grounds but no one in the Middle East doubts that intervention and war is not waged by water cannons, real bullets and missiles are used to kill, not only the militants but also the civilians. People die and statistics debunk all the humanitarian claims. International politics doesn't seem to have any rooms for humanity after all. Palestine is shrinking day by day; her inhabitants are accustomed to massacre. Karabakh is ethnically cleansed of Azerbaijanis and still under occupation while OSCE (Organization for Security and Co-operation in Europe) Minsk Group is a bystander to preserve the *fait accompli*. Massacres in Chechnya and East Turkistan are neglected. Genocide in Burma against Rohingya

ⁱ The name is mistakenly translated as "Islamic State of Iraq or ISI". I find this mistranslation a great flaw because the original name indicates Iraq's Islamic identity while the mistranslation appoints the Islamic identity to the state and renders the entity as an alternative option for governance and thereby has played into the hands of reductionist opinions in respect to militancy of Al-Qaeda and ISIS. I also would contend that, Identity, culture and tradition, highly influenced by religion and in this case by Islam, are the main components of nationalist ideas in the Middle East and the aforementioned mistranslation is overlooking this component.

people is left without notice. After the intervention in Somali in early 1990s the U.S. troops responsible for massacring the local people were decorated with medals and *Black Hawk Down* movie was produced to appreciate what they did. The same was the case when *American Sniper* movie was produced to appreciate a cold-blooded killer. In the same manner the murders during the Bloody Sunday massacre in Northern Ireland were later awarded by the Queen. In the same manner the *U.S. Vincennes* crew were awarded for shutting down Iran Air Flight 655 over the Arabian gulf, killing 290 civilians on board. In Kashmir and Gujarat, the rapists and murderers were never brought to justice. And the list goes on and on. One may wonder if intervention in former Yugoslavia could have taken place in case Yugoslavia was a friendly state towards the West. Could the reactions to the massacres be like the ones to the massacres in Gujarat in 2002? Could Forbes magazine venerate Radovan Karadžić or Slobodan Milošević as it venerated Narendra Modi by ranking him the 15th most powerful person in the world in 2014 and the 9th most powerful person in the world in 2015. UN peacekeepers' indifference during the Srebrenica massacre was simply blamed on bureaucratic glitch and neutrality of the forces when people were being raped and murdered. So where's the question humanity in international politics? How come today all of a sudden humanity is remembered? Professor Anthony D'Amato, also an international lawyer, in reference to international law rightly remarked that "we are very much a state based system as opposed to a human based system". Though, in this thesis I tried to push aside the humanitarian claims that are portrayed as good versus evil, and instead look for systemic reasons that sanction war and intervention against the Islamic State.

To draw the theoretical framework, I have resorted to Hedley Bull's model for the international society of state. Three modules of this model have been in my focus:

- a) Sovereignty

- b) *Pacta sunt servanda*, restrictions on the application of force, mutual recognition of territorial integrity and states' independence – norms in general
- c) international law

To find the source of the conflict between the Islamic State and the international society of states I had to study both sides of the conflict. Theoretical grounds of the international society of states and views on it are readily available to study. But when it comes to the Islamic State, all the articles and the books that I have read so far were in unison condemning the Islamic State and none was providing a theoretical view from the Neorealist perspective. If I were to base my own analysis on those secondary resources, then methodology and the outcome of this thesis would replicate what is already available in the mass media and in the discourse of ordinary people. Even if the enemies of the Islamic State gather mountains of files to condemn the Islamic State, still this does not explain why the international society of states is at war with the Islamic State. Knowing that repetition of the same approach and replication of the same methodology, or in general, induction in this sense does not necessarily explain the phenomena. I didn't want to make the mistake which Kenneth Waltz explains as:

“Today's students of politics nevertheless display a strong commitment to induction. They examine numerous cases with the hope that connections and patterns will emerge and that those connections and patterns will represent the frequently mentioned 'reality that is out there'. The hope apparently rests on the conviction that knowledge begins with certainties and that induction can uncover them. But we can never say with assurance that a state of affairs inductively arrived at corresponds to something objectively real. What we think of as reality is itself an elaborate conception constructed and reconstructed through the ages. Reality emerges from our selection and organization of materials that are available in infinite quantity. How can we decide which materials to select and how to arrange them? No inductive procedure can answer the question, for the very problem is to figure out the criteria by which induction can usefully proceed... Though in itself induction leads to a theoretical dead end”¹

The secondary resources on the Islamic State seem to have an obvious commonality which is the claim that, Islam drives to unprovoked militancy. As a Muslim, who had to take theology lessons during the entire period of his education, I had reasons to conclude that Islam does not drive believers to an unprovoked militancy. It is interesting to note that Tom Anderson, a software engineer, conducted text analysis of Old and New Testament and Quran in terms of violence and trust. It turned out that from the three books, Quran scored the highest in trust and the least in violence². Anderson rightly remarks that these books are not the only literature on their religion. However, as will be explained in the 1st chapter, for the Salafi strand (religious methodology of the Islamic State and Al-Qaeda) the literal meanings in Quran is the essence of Islam. As a result, I became more critical in my reading of the secondary resources. Simply because the basic premise of their whole argument was flawed in my opinion. Nevertheless, the arguments in the secondary resources were not convincing enough to set me undertake an in-depth study of Islamic literature to find a clue that may either satisfy misconceptions or rule them out entirely. I decided to study Al-Qaeda and the Islamic State literature, my primary resources in this thesis, in order to find which specific elements in Islam, if there are any, are a cause to an unprovoked militancy. I didn't find any clues but the product of the study turned out to be the 2nd chapter of this thesisⁱⁱ.

The 2nd chapter of this thesis tries to answer why the Islamic State (and also Al-Qaeda) is driven to militancy. I distinguish between the worshipping aspect of Islam and the Political aspect of Islam in order to show where the cause to militancy lies. I describe where the Islamic discourse of these non-state actors come from. Next, I describe the paradigm through which the Islamic State sees the world. The chapter concludes that occupation of Palestine,

ⁱⁱ Maybe in a different society this chapter wouldn't have been necessary at all and different areas could have been studied instead.

prosecution of Muslim opposition, intervention, invasion and massacres of Muslims are the main drivers to militancy.

Another advantage of studying the primary resources was singling out what could be called “the political discourse” of the Islamic State and what is being derived from the paradigm and evaluating them in the light of the three abovementioned modules of the international society of states. In the 3rd chapter it is argued how the fundamental issues of sovereignty and norms of the international society of states is challenged by the Islamic State. This chapter concludes that the Islamic State is not necessarily a threat to the sovereignty of concerned states. Nevertheless, the Islamic State will not take up the norms practiced by the international society of states.

In the 4th chapter, International law as an institutions of international society of states is in the focus. The chapter argues that the benchmark for the legitimacy of any law, from the perspective of the Islamic State and from the perspective of the international society of states is totally different. In this chapter, the creation of the Islamic State, legal challenges in the light of the right to self-determination, commencement and extinction of a state is argued. The chapter concludes that the current international law cannot accommodate the statehood which is being sought by the Islamic State.

In this paper, even though Al-Qaeda is not in my focus, but I had to follow the evolution of thought. After all, the current Islamic State is indebted to Al-Qaeda for the early stages of inception. But most importantly because their arguments are similar to one another. They are almost the same in terms of ideology but apparently deploying different tactics to achieve the same strategic goals such as establishing a Khilafah or a caliphate. The quotes I have used are carefully selected on the basis of articulating the point in the argument. Even though I may have the Islamic State in my focus but when the Al-Qaeda’s literature addresses the same point

simply and eloquently, then I have quoted from Al-Qaeda than having to rephrase the arguments in the Islamic State literature that have the same stance on the same issue.

The significance of this approach is that it is not interest-based and does not entertain the quasi-principles such as lost love for humanity that still remain on the paper, rather a realistic approach that can open ways to conflict resolution. The absurd concepts of fundamentalism, extremism, terrorism and whatnot has just reduced the proclaimed ‘emerging threat’ to inconclusive arguments such as “tradition vs. modernity”, “theology vs. secularism”, “ignorance vs. democracy” and etc. depending on how states try to justify the own course of action. Authors of reductionist approach are claimed to have been writing on politics but actuality their point of argument is that a group of psychopath extremist, fundamentalist, Islamist, ignorant, undereducated poor people without sufficing exposure to modernity and democracy who are commonly accused of being sex addicts with their archived files of sex offence piled on one another in the judicial departments, all of a sudden turned out to be rocket-scientists and organized hundreds of people if not thousands of people, in an army to outmaneuver the incumbent governments backed by foreign states, snatch their territory, declare independence, recruit internationally and run an unforeseen media campaign. I will critique some these reductionist claims in this paper but as it appears to me, this type of reductionism seems to have the intention of sucking us into the vortex of moral and theological philosophy and defeating us there because there are no answers there, only subjective interpretations and justifications according to so-and-so. What these approaches are suggesting is that you have to be a philosopher of ethics or a theologian (i.e. *Imam*) or a psychologist to find an answer to the questions that are being tackled by states and politicians. However, they themselves are neither a philosopher of morality nor an Islamic jurist. Murtaza Hussain in an argument about Boston Marathon attacks in 2013 says:

“Documents recently published by The Intercept show that while the government tends to focus on social and economic problems officials believe contribute to extremism, it does not address the political motivations most often cited by terrorists themselves. ‘Government agencies are using models of radicalization which don’t reflect reality,’ said Michael German, a former FBI agent and fellow at the Brennan Center’s National Security Program. ‘These models are not designed to actually identify the problem, they’re designed to suppress the questioning of political motives when discussing violence.’”³

While these reductionists capitalize on humanitarian issues by twisting the reality and supplying misinformation, I was dismayed that in the secondary resources studied for this thesis, none of them mentioned a word about the inflicted casualties by the intervening states. Which as I will show in the second and third chapters in numbersⁱⁱⁱ, these casualties are far greater than the casualties inflicted by the Islamic State. This reminds me George Orwell in his masterpiece *Animal Farm*: “All animals are equal, but some animals are more equal than others”.

Take for instance Charles R. Lister’s book *The Syrian Jihad: Al-Qaeda, the Islamic State and the Evolution of an Insurgency*. The subject matter of the book is not much relevant to the research question in this paper but a brief review of it is not without merits, because some of the points in the book replicates common perspectives on the Islamic State. These views will be reintroduced separately along with my critique in the next chapters. C.R. Lester’s argument in the first part of his book is in regards to Sunni Islam and the Syrian government’s sponsorship of militants or in the author’s words “jihadists” who later helped with the ascendance of Al-Qaeda in Iraq and the Islamic State (formerly ISIS).

ⁱⁱⁱ The numbers will correspond to the context of the argument in the paper. E.g. in the 2nd chapter if a piece of information from 2015 is quoted, numbers and statistics from 2015 will be used for evaluation of the information. In the 3rd chapter, if the argument has a general discourse, then the most recent statistics from 2016 will be used for evaluation of the subject being discussed.

The author argues that after an era of Hafez Al-Assad's unrivaled authoritarianism, came a new era that was introduced by his son Bashar Al-Assad when he assumed his father's presidential position in year 2000. The new era which sought political liberalization and Western investment, came into conflict with the interests of the traditional members of the Baath party from Hafez Al-Assad's time. As a result of the absence of political reforms the "Syrian government policy continued to be implemented by Damascus-appointed officials at both provincial and municipal levels, almost all of whom tinkered with policy to suit their own financial ends."⁴ This situation eventually profited the *Mukhabarat* or the military intelligence. The author explains that in the previous era Hafez Al-Assad and generally the Baath party was hostile towards the Sunni community since as early as the Baathist coup of 1963. Particularly, the regime had bitter and sporadic armed conflict with the Muslim Brotherhood in Syria. After Sunni guerillas seized the control of Hama city in late 1981, the government launched "a sustained three-week military bombardment campaign that killed somewhere between 10,000 and 40,000 people. This massive and largely indiscriminate use of military power, in what is now known as the Hama Massacre, brought the Muslim Brotherhood in Syria to its knees"⁵. Eventually "The 1980s represented an era of unrivalled political authoritarianism in Syria during which Sunni Islam and religion in general was kept tightly controlled by the state apparatus. Many mosques were open only at prayer time, and chose to shut their doors to the traditional hosting of religious lessons and discussions"⁶. Nevertheless, the author further explains that when Bashar Al-Assad assumed the presidential office he "Almost immediately, ... presided over a partial revival of Sunni Islam within state accepted circles and set about establishing friendly and eventually rather cosy relationships with moderate Sunni leaders, who were duly installed in positions of authority"⁷. This cordial relationship seems to have lasted until 2008 when "the government began implementing various initiatives that brought back memories of the Hafez administration, such as dismissing female public-sector employees for

wearing the *niqab* and allowing the *mukhabarat* to reassert their vigilance over mosque and religious studies activities”⁸ hence, the author concludes that “Syria was—despite the official government line—a one-party state ruled by a family and its loyalist clique”⁹. The author seems to be trying to present two distinct arguments. On the one hand he argues that that in the Sunni majority Syria discontent was spreading because of minimal political reforms, mismanagement of economy, corruption and socio-economic divide which culminated in 2011 anti-government protests. On the other hand, he adds that actually when Bashar Al-Assad took over from his father Hafez, that particular era of taking over the power was “the beginning of a phase of more overt Islamic practice in Syria”¹⁰ which came as a result of

“Hafez’s opening up to Islam in the 1990s when dozens of new mosques were constructed across the country and countless Islamic schools were established in which Qur’anic studies prevailed over traditional curriculums. An influx of foreign Islamic finance, particularly from Wahhabi Saudi Arabia in the late 1990s, meant that many of these institutions gradually took on a more conservative aspect, in a departure from their original roots, which were derived from more moderate Sufi Islamic practices”¹¹

In this respect the author suggest that it was these Muslim conservatives whom the notorious *mukhabarat* manipulated and used as foreign policy tool both in Lebanon and Iraq and later it was these Muslim conservatives who filled the ranks of Al-Qaeda in Iraq and the initial organization which later evolved into the Islamic State. He concludes his argument by citing Lieutenant Colonel Joel Rayburn, a former aide to General Petraeus, who expressed in February 2012 that:

“There is surely not in modern history a more perfect example of blowback than what is happening now in Syria, where Al Qaeda in Iraq’s operatives have turned to bite the hands that once fed them ... Having terrorized the Iraqis for seven years, the Syrian regime now cynically seeks the world’s sympathy as terrorism’s victims”¹²

We may conclude that in the author's point of view, the revolution in Syria started off with a particular category of people who were generally discontent with the domestic policies of the regime, however, this revolution took a different course when the regime failed to control the Muslim conservatives who were affected by the so-called Saudi Wahhabism. The author has the same conclusion about Iraq when in one part he explains the evolution of the Islamic State:

“Despite being an avowed Baathist and not known himself for having any particular personal devotion to Islam, Saddam Hussein exploited Islamic conservatism as a strategic counterweight to the growing influence of the Muslim Brotherhood from the early-1990s. This was a process known at the time as *Al-Hamla al-Imaniya*, or the Faith Campaign. In addition to simply allowing more conservative Islamic practice, intelligence officers were also embedded covertly within mosques and instructed both to politicise the religious discourse produced within, and to make it more hardline”¹³

The author suggests that there are mainly and generally two types of military groups in Syria. One, is the FSA or the Free Syrian Army and the groups which are linked to the opposition in exile. The author does not provide a label for this group. The other type are the Islamists. The Islamist are divided into two categories. One category includes those who are willing to co-operate with the Western states and have embraced the Western political discourse in respect to statehood. These are labeled as ‘Moderates’. The second category includes those who are not willing to co-operate with the western states, they refuse to accept Western backed initiatives for the future of Syria, they want to implement *Sharia* in Syria and they want to establish an Islamic *Emirate* or an Islamic State. This category also includes those who are against intervention and threaten to retaliate against the intervening states. This category is labeled Jihadist/extremist/terrorist. Thus, according to the author the Islamic State falls into this very latter category. Throughout the rest of the book, the author provides his own

chronologically ordered observation of the events and incidents in Syria and gives his description of interaction among all the parties involved in the Syrian war.

In regards to Jihadists/extremists/terrorist category and the Western threat perception, the author observes that:

“Terrorism has indeed become a colossal issue in Syria. The total number of Sunni jihadist militants in the country may well be considerably higher than 50,000—taking into account IS, al-Qaeda and all other independent factions. While IS is already actively encouraging lone-wolf attacks in the West and seeking to destabilise Turkey, al-Qaeda’s principal strategic objective remains the targeting of Western assets around the world. Therefore, existing efforts to counter jihadist safe havens in Syria must undoubtedly continue, but within a more comprehensive strategic vision that encompasses a realisation that unstable and repressive government only drives factors such as conflict, resentment and extremism that jihadists exploit”¹⁴

It is also worthy of mentioning that the author introduces Russia and Iran as the troublemakers or as the ones who “muddy the waters” while vindicates U.S. and U.S. led coalition from any misdeed in respect to the emergence of the war in Syria and Iraq and the ensuing humanitarian catastrophe. The abovementioned conclusion is repeated several times in the ending part of the book, but the author never explains why would IS or Al-Qaeda target the Western states and their allies. This is the question that I have tried to answer in the 2nd chapter.

Thomas Hegghammer and Petter Nesser in a research based on “IS-linked plots” assess the Islamic State’s commitment to attacking the West. For this assessment, on the one hand, they have studied primary resources from the Islamic State (leadership statements, Magazines, Videos and statements from foot soldiers) and on the other hand they have studied attacks on the Western states from early 2011 to mid-2015. For their assessment they typify 30 “IS-linked plots” based on the type of connection between the IS and the agents who operationalized the attacks. The authors find that:

“The majority of IS-related plots belong in the lower end of the spectrum of organizational involvement. We found no plots of type 1 (training and top-level directives), and only two cases of type 2 (training and mid-level directives). By contrast, we found 17 cases of type 6 (no contact whatsoever [with IS]) and five of type 5 (remote contact without directives). If we group plot types into high and low-involvement plots as described earlier, then our data suggest low-involvement IS plots outnumber high-involvement ones by a factor of almost three to one (22 vs 8)”¹⁵

I presume that “low-involvement plots” (or sympathizer attacks) are more or less due to pervasive frustration with the Western state’s foreign policy towards the Islamic State and the Middle East at large. This is very much clear in the official statements of IS, her sympathizers and her members irrespective of their seniority or rank. Authors also have the same opinion in respect to the messages delivered via IS videos. Examples of this frustration is provided in the following chapters of this paper. Finally, the authors conclude that:

“Islamic State does not currently pose the same type of terrorist threat to the West as al-Qaida did in the 2000s. IS has not yet “gone global” in the sense of having committed a substantial proportion of its resources to out-of-area operations. Instead, it has assumed a profoundly ambiguous, hard-to-read posture toward terrorism in the West... In deeds, the lower echelons of the organization have been implicated in several plots, but the top leadership appears not yet to have groomed attack teams for major operations in the US or Europe the way Usama Bin Ladin and Ayman al- Zawahiri did. Why they have not done so is a question for further research, but we suspect it has to do with the group’s local state-building ambitions.”¹⁶

I was advised to rephrase some of the lengthy quotes but with all due respect I reused. The reason is, First, the quotes from the primary resources are valuable pieces of information that I have selectively chosen for the body of the thesis not for the appendix. The lengthy detailed quotes hint at the importance and existing preoccupation with the issues and I have tried to reflect this importance as it is. Second, I find the quotes carrying a sense of despair, agony and

joy. I didn't want to replace these expressions with my own words and vague meaningless adjectives that are not literally mentioned in the original speech or article. Third, I didn't touch the length of the quotes from the secondary resources to remain impartial in treatment of the resources. Fourth, as I will show in the next chapters, there's a different understanding of the primary resources. I have quoted the whole part of a speech or an article to provide the context as well. Fifth, when I personally go to the original texts and its context and find out discrepancies in the interpretation of another author, then my view of the author is badly affected afterwards. Thus, I don't like anyone to interpret a text for me and I wouldn't do it for anyone. Last but not least, in instances where the native English speaker as an author or translator lays out the point clearly then I didn't find it necessary to express the same point again in my own words by rephrasing. I believe that a quote should be evaluated by whether it is expressive and strait to the point or not.

Basically, what I have done in this paper is studying information, processing them, organizing them within the limited scope of the theoretical framework, analyzing them, partially reflecting them in this paper and partially drawing preliminary conclusions that beg further study and research in variety of relevant areas that could not be covered in this paper.

CHAPTER 2

WHAT DRIVES AL-QAEDA AND THE ISLAMIC STATE TO MILITANCY?

2.1. Introduction:

In this chapter I will describe the paradigm or the world-view that is adopted by the Islamic State and Al-Qaeda. The distinction between Al-Qaeda and the Islamic State is out of the purview of this paper. However, the reason Al-Qaeda is also mentioned here is because there's a continuity in the evolution of thought which Al-Qaeda pioneered by bringing into spotlight and later this thought was developed by the Islamic State. It would be correct to say that the Islamic State purified the paradigm by shedding the compromise which Al-Qaeda had attached to it for fitting her own strategy into the paradigm. To introduce the paradigm, I will first mark a distinction between spiritual and political aspects of Islam, also differentiating between Islam as a whole and interpretation of Islam as a matter of policy. This is important for the purpose of finding the sources of causal factors and in contrast to the common practice of lumping everything in a bundle and introducing this bundle as a cause to militancy. Examples of this practice will be evaluated throughout this paper. Next, I will explain where the Islamic discourse of Al-Qaeda and the Islamic State comes from. Then I will introduce the pillars of the paradigm namely, threat perception, subject of the threat and defense mechanism.

As far as this chapter is concerned, I believe that reality and the driving mechanisms in the social and physical world cannot be fully understood solely by reliance on hard objectivism¹⁷. Number of militants, revenues in terms of monetary currency, type of attacks and etc. are not enough to explain causal factors to militancy. The reality of social entities exists only in the names and labels provided for them, and for me to discover the other side of the story I should resort to utilizing social constructivist views, the ways in which social meanings are created through historical and contemporary interactions in their own context¹⁸. For example, to understand *Jihad*, we need to study it in its own context and on its own historical

grounds. Otherwise what we might think of *Jihad* would be a concept only meaningful to us and disconnected from reality. I will have a post-positivist ontology and consequently positivist and interpretivist epistemology. My methodology in describing the paradigm in this chapter will follow the inductive reasoning used by Al-Qaeda and the Islamic State. This is to prevent adding my own reasoning and leaving the context intact. and my method will be analysis of qualitative data available in some of the Al-Qaeda and the Islamic State documents which constitute my primary sources.

2.2. Islam and Politics and Policy

From the outset it must be clarified that Islam is not a religion only in terms of worshipping the creator. Islam is intertwined with politics to a very great extent. In fact politics is an inalienable and major constituent part of Islam with its own parliament known as the tradition of *Ahlul-Halli wal-'Aqd*, its own government known as the Caliphate, its own president known as Amir, its own constitution and legal system known as Sharia law and last but not least its own nation known as Ummah. Probably it is the highly secular nature of our scholarly approach that overshadows this inextricably interwoven link to the point that for many, politics and Islam are considered two different entities that their mixture must result in a new entity which is famously labeled as “political Islam” that doesn’t really mean much for those who find politics within Islam. In fact the first priority of Prophet Muhammad was to establish an Islamic State in Medina¹⁹. Ruhollah Khomeini, who is also called one of the architects of Iran’s Islamic state once said: “I swear by Allah, Islam is all about politics” and in another account he says: “Islam is the religion of politics before being a religion of spirituality”²⁰. From this point of view which is also my point of view throughout this research, Islam is politics and “political Islam” is tantamount to “political politics”.

Therefore, for the purpose of clarification I am differentiating between political and worshipping aspects of Islam. The political aspect of Islam is very much influenced and even

shaped in the context of confrontations that took place in the early ages of Islam between the newly born Muslim community and other communities and centers of power (in section 2.6, I will explain how this factor comes into play in the worldview of Al-Qaeda and the Islamic State) However, the political aspect is in tight relationship with the worshipping aspect by the concepts of purpose of existence and the package of Justice^{iv} enshrined within Islam. For example, The political aspect of Islam calls for the defense of Muslim community – As I will elaborate on it in reference to Jihad – and the worshipping aspect justifies that, this defense will be rewarded in the hereafter because the purpose of life is a test²¹ to distinguish those who accept the calamities and stand up for justice. As Shaykh al-Islam Ibn Taymiyyah^v, one of the very renowned scholars of Islam says: “The path of Jannah (paradise) has no place for the scared, or the terrified”. “Jihad fi Sabil Allah” which literally is translated as Jihad in the path of Allah means standing up against injustice and oppression and this is a value on its own independent of the outcome. In other words, standing up against injustice and oppression is rewarded in the hereafter, irrespective of whether this striving and struggle is culminated in victory or martyrdom.

Now if we single out the political aspect of Islam we may ask: would people not fight for the defense of their own community if they were not believers in faith? History of

^{iv} Islam strikes a balance between all the aspects of justice i.e. general justice, particular justice, substantive justice, formal justice, arithmetic justice, proportionate justice, commutative/reciprocal justice, distributive justice and therefore I call it the package of justice.

^v Shaykh al-Islam Ibn Taymiyyah Taqi ud-Deen Abul-Abbaas Ahmad Ibn Abdul-Haleem Ibn Abdus-Salaam Ibn Taymiyyah al-Harrani al-Hanbali (1263-1328) was a very famous Muslim scholar of the 13th century. Ibn Taymeyyah studied the Qur`an, Hadeeth and Sharia. He learnt the Hanbali Fiqh (law) from his own father and followed in the footsteps of his father, who was a scholar of Islamic studies, by studying with the great scholars of his time. His grandfather, Abu al-Barkat Majd-Al-Deen ibn Taymiyyah was a reputed teacher of the Hanbali School in Damascus which was the center of Islamic studies at that time. Ibn Taymiyyah had great love for Tafseer (Qur`anic exegesis). He read over a hundred commentaries of the Qur`an. He completed his studies when he was a teenager and at age 19 he became a professor of Islamic studies. He was well versed in Qur`anic studies, Hadeeth, Fiqh, theology, Arabic grammar and scholastic theology, etc. The Muslim scholars, like adh-Dhahabee, Ibn Katheer, Ibn al-Imad al-Hanbali and many others praised Ibn Taymiyyah and considered him one of the greatest scholars of Islam of all time. Ibn Taymiyyah died at the age of 67 while in jail in Damascus.

humankind tells us that they would. In fact, even before the inception of religion people have always fought for what they have considered to be right and just.

Being mindful of these two aspects and their link is necessary to grasp the worldview of Al-Qaeda and the Islamic State. I presume that lack of this awareness will lead one to make the same mistakes as Bruce O. Riedel the author of *The Search for Al Qaeda: its leadership, ideology, and future*²² has made in his book. He argues that the basis of Jihad was laid as a result of Islam's mixing with politics which resulted in cultivation of Jihadi figures such as the leaders of Al Qaeda and even before that bringing up assassins who sealed Anwar Sadat's fate for signing peace treaty with Israel. Moreover, he goes on to call the *madrassas*^{vi} as the instigators of global Jihad. Considering that Bruce O. Riedel is "a senior advisor on South Asia and the Middle East to the last four presidents of the United States in the staff of the National Security Council at the White House and deputy assistant secretary of defense for the Near East and South Asia at the Pentagon and a senior advisor at the NATO in Brussels and with 30 years of service at CIA"²³, we may not doubt why Donald Rumsfeld pressured Pakistan's Pervez Musharraf to modify the curriculum of *madrassas* and schools by excluding studying a few chapters from Quran²⁴. This was later considered by the mass public as intervention and enmity with Muslims²⁵. In this respect Aiman Al-Dhawâhiri, the current leader of Al-Qaeda in his "letter to American people" states that: "The sixth thing that we ask of you is that you end your support of the corrupt and corruptive rulers of our countries and end your interference in our national policies and the curricula of our educational institutions. Either leave us alone, or expect us in New York and Washington"²⁶. However, if the *madrassas*' are preaching Islam and if Islam is ordering Muslims to rise against oppression and occupation then the problem is not with Islam, it is the oppression and occupation and it goes without saying that standing against oppression and occupation does not require one to be a believer. The Irish Republican

^{vi} Islamic seminary

Army was not a Muslim or a diehard Catholic organization, but still they fought against British occupation of Ireland. It is as if Donald Rumsfeld and Bruce O. Riedel were assuming that if Islam did not exist in the Af-Pak theater, then Taliban would welcome U.S. invasion or the global Jihad would forget about Palestine's occupation (more details are provided in the following sections).

Another point to be noted is that there is a distinction between Islam and policy. The legitimate primary sources of Islam are Quran and the authentic commentaries of prophet Muhammed. The way these two sources are interpreted, practiced or preached is a matter of policy. The distinction can be obviously differentiated when comparing the practicing and preaching of Islam in two officially Islamic states of Iran and Saudi Arabia. In this case, even though there is only one Islam but we observe different and contrasting types of it. In plain language, Islam is used to legitimize the policy. In the same manner, an Islamic hue or discourse should not blind us to the fact that for any state, organization or entity, the end justifies the means, and if these means happen to be religion – Islam in my case of study – we cannot simply look for the causal factors in the means applied to exact the ends. To achieve the same ends variety of means could be utilized. Means change, but the ends remain relatively constant (depending on capabilities) and only their study will lead us to the causal factors. Claiming that Islam drives Al-Qaeda and the Islamic State to militancy is tantamount to claiming that the causal factors are ingrained within the means applied to exact the ends. This will result in pre-identifying the causal factors even before beginning the research. As a result, we will be led to cherry-picking whatever that fits into our own preconceptions' framework and consequently ending up having a group of highly subjective and interpreted/misinterpreted variables that may even fail to be qualified for gauging by positivist standards. The other way around, is to look for causal factors by studying the ends. The ends simply tell us what doesn't exist initially and therefore they are sought. What is being sought is the driving force, our causal

factors. In other words, the causal factors are the driving force of any action, and hence the ends of a policy simply tell us what its initiators lacked and therefore sought to achieve. How they are sought or legitimized is a matter of policy that is adopted and presumed to be a viable method to exact the ends. Without doubt any military organization in the same caliber with Al-Qaeda and the Islamic State could never legitimize their own policy by relying on the values and scholasticism that is being propagated and endorsed by the very states that have been taking military actions against the countries and people whom these organizations want to defend. Gabriel Almond's structural functionalism may hint that any such organization has to replicate value aggregation and value articulation to remain functional and become legitimate in the eyes of the local population or her constituency²⁷. And history of these organizations prove they have succeeded in this regard. In the following section I will elaborate on the Islamic aspect of Al-Qaeda and the Islamic State to show where their Islamic discourse is coming from.

2.3. The Islamic Background of Al-Qaeda and the Islamic State:

Al-Qaeda and the Islamic State have a strong Islamic discourse and it is for this reason that these organizations are assumed to have roots in religion and even are claimed to have been instigated to militancy by religion (Islam). Therefore, it is important to address the religious aspect of these organizations.

The scholars of Islam divide Islamic teachings into three parts²⁸ as follows: Doctrines ('aqa'id) or scholastic theology, Morals (akhlaq), The Law (ahkam) or Jurisprudence. It must be mentioned that all the branches of these studies are interlinked. The divide is due to the main subject of study. The study of Doctrines is usually referred to as "Ilm al-Kalam" and mainly deals with subjects such as "the unity of God" (Tawheed) and the "purpose of life". One of the methodologies in this type of study is Salafi/Salafiyyah methodology.

2.3.1. The Salafiyyah Methodology:

Salafiyyah is a very complicated methodological approach and expansive current in the Islamic world that cannot be treated exhaustively here. Therefore, I will only describe some of the common tenets of Salafiyyah and the areas that fit into the scope of this paper in a manner that the integrity of the subject at hand is not compromised.

The simplest definition of Salafiyyah according to Shaykh Muhammad ibn Saalih al-Uthaymeen^{vii} is: “Salafiyyah is following the way of the Prophet (sallallahu alaihi wa-sallam) and his Sahabah for they are our Salaf (predecessors) who preceded us, so following them is Salafiyyah.”²⁹ Salafiyyah or Salafi Minhaaj (i.e. methodology) seeks to practice Islam as it was being practiced by Prophet Muhammad and his companions (Sahabah i.e. As-Salaf as-Saalih), their followers (Taabi'een) – the first three Islamic generations for being closest to the era of Prophet Muhammad- and prominent Sunni scholars whose credibility and scholasticism is trusted. The necessity is evoked from Quran and Prophet Muhammad’s commentary: “As for him who opposes the messenger, after the guidance has been pointed out to him, and follows other than the believers' way, we will direct him in the direction he has chosen, and commit him to Hell; what a miserable destiny!”³⁰

Prophet Muhammad said: “I am leaving among you two weighty things: the one being the Book of Allah in which there is right guidance and light, so hold fast to the Book of Allah and adhere to it. And the second my Sunnah (the way Islam is practiced by Prophet Muhammad and his companions)” (reported by Al- Haakim and Sahih Muslim)³¹ Along with Allah and Quran which are important for all the Muslims, Prophet Muhammad, Salaf and Sunnah lie at

^{vii} Shaykh Muhammad ibn Saalih Al-Uthaymeen(1929-2001) was a Saudi scholar, jurist, and Mufti. Bin Uthaymeen is considered one of the most pre-eminent scholars of the 20th century and held several senior memberships in governmental and educational councils. He has authored more than 40 books in different Islamic sciences including Tafsir (interpretation of the Holy Qur'an), monotheism and fatwas (verdicts or Islamic decrees). Remarkably, all points and statements Bin Uthaymeen makes in his books are founded on the Holy Qur'an, authentic Hadith, and the confirmed understandings of the prophet's companions. Some of his collections were officially adopted in many institutions of learning in Saudi Arabia. He also recorded tens of thousands of vocal hours in audio media that included his lectures, preaches, interviews, radio religious programs, and his scientific lessons in the explanations of the Holy Qur'an and prophetic tradition.

the core of Salafiyyah and for that reason the latter elements are the means of judgment and evaluation for Salafis^{viii}. Salafi methodology is divided into several strands. The relevant one to this paper is Takfiri Salafi.

2.3.2. Takfiri Salafi

Takfir means to claim that a real/legal entity is Kafir or from Kuffar. Kafir in Islamic context means someone who denies the existence of Allah and Prophet Muhammad's being the last and final messenger of Allah. The "Takfiri" title is given to this strand of Salafis by the adherents of the other Salafi strands and interestingly the so-called "Takfiri Salafis" don't agree with this naming and consider it as a slur. The reason they are Takfiri is mainly because they do not agree with other Salafi strands (or the majority) and as far as political stance is concerned, they have irreconcilable differences. Other Salafi strands are pacifist and don't come into outright opposition with the governments of their respective countries while for Takfiri Salafis the legitimacy of any government in a Muslim country that does not implement Sharia law is null and void but they also argue that the time is not ripe and the conditions are not in place to topple these governments or wage Jihad against them. Dr. Yasir Qadhi argues that "While most members of this group (Takfiri Salafi) do not actively engage in jihād themselves, their writings lay the foundations for the position of the next group"³² which is militant/Jihadi Salafi.

2.4. Militant/Jihadi Salafi, Jihad or Defense Mechanism:

Jihad comes from the root verb "Jahada" meaning to strive and struggle. Jihad literally means an act of striving and struggling and anyone doing Jihad is called "Mujahed". In the Islamic context, the primary meaning of Jihad is to fight against one's own evil temptations.

^{viii} This is why we see "La Ilaha Illa Allah, Muhammad Rasul Allah" (There's no God but Allah and Muhammad is the Messenger of Allah) on the Al-Qaeda and The Islamic State flags (flag of Tawheed). This could also explain why Salafis are called Fundamentalist. Nevertheless, according to Merriam-Webster Dictionary this label - Fundamentalism- was first given to a group of Christians in the early 20th century in U.S. where they rose against Protestantism. They were claiming that Bible is the verbatim word of God and free from errors or mistakes.

But Jihad also means to fight in defense of the Muslim society³³. As it is apparent Jihad in Islam is essentially a defensive measure and has never been used in an offensive context³⁴. We are not mistaken if we call it a defense mechanism. I should remark that, Jihad throughout history has been used to justify variety of policies to the point that even recently we come across terms like “Jihadi Management”. The explanation I provided for Jihad is what we have in Islam. Al-Qaeda and the Islamic State also use Jihad as a defensive mechanism. This is best expressed by Shaykh Usama Bin Ladin in his “Address to the American people” In 2004 in which after making a reference to U.S. support for Israel and Israel’s invasion of Lebanon in early 1980s, he says:

“The events that affected my soul in a direct way started in 1982 when America permitted the Israelis to invade Lebanon and the American Sixth Fleet helped them in that. This bombardment began and many were killed and injured and others were terrorized and displaced. I couldn't forget those moving scenes, blood and severed limbs, women and children sprawled everywhere. Houses destroyed along with their occupants and high rises demolished over their residents, rockets raining down on our home without mercy... And as I looked at those demolished towers in Lebanon, it entered my mind that we should punish the oppressor in kind and that we should destroy towers in America in order that they taste some of what we tasted and so that they be deterred from killing our women and children.”

Finally, he concludes that “Your security is in your own hands. And every state that doesn't play with our security has automatically guaranteed its own security”³⁵.

Jihadi Salafis believe that Muslims are not bound to obey any government in Muslim countries that does not rule according to Sharia law. Also they believe they have to wage jihad against intervention (politically and militarily) of non-Muslim states into the domestic affairs of Muslim countries. Al-Dhawahiri, the current leader of Al-Qaeda says: “Whatever its form, method and means, force remains a necessary element for bringing about change when confronting the alliance of evil and repression to which I referred, after all paths to peaceful

change have been blocked.”³⁶ The alliance which Al-Dhawahiri is referring to, as explained in his article, refers to the co-operation between the dictators in Muslim states and the non-Muslim states especially the Western states and Israel, which comes at the expense of Muslims resentment. In fact this is the reason why for Jihadi Salafis, dictatorship in Muslim countries when coupled with an alliance with the Western states or Israel, is considered as a grand plot against the Muslims or Ummah^{ix}. Samir Khan, one of the assassinated members of Al-Qaeda in his article “Palestine: betrayal of human consciousness” argues that peaceful means will never lead to the liberation of Palestine or the “protection of those that are being tyrannized by terrorizing weapons”³⁷ or as Faisal Shahzad, New York city Times Square bomber explains in an e-mail: “The Crusade^x has already started against Islam and Muslims with Cartoons about our beloved Prophet as war drums. Peaceful protest have achieved nothing”³⁸. It must be noted that cartoons to humiliate Muslims is considered as part of a bigger picture. In reference to cartoons ridiculing prophet Muhammed, the editor of the Al-Qaeda’s *Inspire* magazine remarks that:

“Muslims continue to face the results and consequence of the fierce crusade aggression against Islam... revealing themselves in different forms of aggression: plundering Muslim wealth, occupying their lands, imprisoning their men and women, killing their scholars and the worst of all is the aggression towards the very core principles of Islam”³⁹

2.5. Subject of threat and threat perception of Al Qaeda and the Islamic State

Al-Qaeda and the Islamic State have a unique worldview. To understand it, I have to magnify one point that was indirectly mentioned in the previous sections, which was “Muslims” or “Ummah”. These organizations consider Ummah or the Islamic nation (Muslims as a nation) to have been targeted by non-Muslims especially by Judeo-Christian West. Their

^{ix} In some cases, such as the Houthi rebellion in Yemen or the dictatorship in Iraq or Syria, this alliance also includes Iran. Salafis and generally renowned Muslim scholars don’t consider Iran or Shias to be Muslim.

^x Jihadi Salafis have well embraced George W. Bush’s remarks in which he said “This Crusade is going to take a while” but there are also other reasons for Al-Qaeda and the Islamic State to believe that Crusade is waged against Muslims. I will mention a few more reasons in the following sections.

definition of nation is derived from Quran and the commentaries of Prophet Muhammad. In Quran it is said that: “O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted”⁴⁰ or “The believers are but brothers, so make settlement between your brothers. And fear Allah that you may receive mercy.”⁴¹ Prophet Muhammad says: “A Muslim is a brother of another Muslim, so he should not oppress him, nor should he hand him over to an oppressor. Whoever fulfilled the needs of his brother, Allah will fulfill his needs; whoever brought his (Muslim) brother out of a discomfort, Allah will bring him out of the discomforts of the Day of Resurrection, and whoever screened a Muslim, Allah will screen him on the Day of Resurrection.”⁴² Therefore what makes up Ummah is simply the religion of Islam.

Now that we have the subject of threat (i.e. Ummah) and the defense mechanism (i.e. Jihad), we may begin identifying the threat perception. For this purpose, I will quote two senior figures one from Al-Qaeda and one from the Islamic State. Abu Mus’ab Al-Suri who is said to be Al-Qaeda’s military strategy architect writes:

“During the first Gulf War in 1991, more than 300,000 people were killed. In Iraq, 13 years of economic sanctions resulted in more than 1.5 million children’s death from diseases that could easily be prevented. In the U.S. invasion of Iraq to topple Saddam, more than 10,000 were killed and tens of thousands are imprisoned in Iraqi government’s Shia torture chambers not to mention the abuses carried out by the Americans themselves. Thousands have been killed in Palestine by the Zionist butchers that are still rampaging. More than 200,000 Bosnian Muslims were slaughtered in the worst case of European genocide since World War II. More than 60,000 cases of rape were registered there, let alone those that were too ashamed to report. In Chechnya, more than 300,000 Muslims were massacred, their honor violated, houses destroyed with thousands imprisoned and hundreds of thousands made refugees. In Afghanistan, tens of thousands were killed in the December 2001 invasion by the Americans in a blind rage, most were innocent

civilians. Guantanamo has been filled with not only Mujahideen brothers but also with hundreds of innocent civilians; all being tortured and subjected to the most despicable crimes. The list goes on and on with Christian aggression in Indonesia, the Philippines and Africa, Buddhist aggression in Burma and Thailand, Hindu aggression in Gujarat and Kashmir. In every corner of the Ummah there is oppression. Just think of how many Mujahideen or even normal Muslims are held without trial, often for decades, in Muslim countries! The number is at least 100,000. In Saudi Arabia alone the number is at least about 30,000. In the non-Muslim lands Imams have been imprisoned, politically active brothers abducted - as was the case with the Egyptian sheikh Abu Omar Al-Misri kidnapped inside Italy by the CIA to be tortured in Egypt. Mosques and Islamic centers have been torched, Muslim immigrants illegally assassinated. So the question has to be asked, who really are the terrorists?"⁴³

Almost in the same manner the Islamic State leader, Shaykh Abu Bakr Al-Husayni Al-Qurashi Al-Baghdadi, in his speech in the 3rd of July 2014 in the Grand Mosque of Mosul during the Friday prayers said:

“O soldiers of the Islamic State... Indeed, the Ummah of Islam is watching your jihad with eyes of hope, and indeed you have brothers in many parts of the world being inflicted with the worst kinds of torture. Their honor is being violated^{xi}. Their blood is being spilled. Prisoners are moaning and crying for help. Orphans and widows are complaining of their plight. Women who have lost their children are weeping. Masajid (plural of masjid or mosque) are desecrated and sanctities are violated. Muslims’ rights are forcibly seized in China, India, Palestine, Somalia, the Arabian Peninsula, the Caucasus, Sham (the Levant), Egypt, Iraq, Indonesia, Afghanistan, the Philippines, Ahvaz, Iran(Shia), Pakistan, Tunisia, Libya, Algeria and Morocco, in the East and in the West. So raise your ambitions, O soldiers of the Islamic State! For your brothers all over the world are waiting for your rescue, and are anticipating your brigades. It is enough for you to just look at the scenes that have reached you from Central Africa, and from Burma before

^{xi} According to my observation, “violation of honor” in Al-Qaeda and the Islamic State literature refers to sexual harassment and rape.

that. What is hidden from us is far worse. So by Allah, we will take revenge! By Allah, we will take revenge! Even if it takes a while, we will take revenge, and every amount of harm against the Ummah will be responded to with multitudes more against the perpetrator.”⁴⁴

What is apparent from the exemplified quotes that have been mentioned so far, the threat assessment of Al-Qaeda and the Islamic State includes oppression of Muslims by dictatorial governments, non-Muslim state’s support to these dictators, military interventions that have culminated in the occupation of Muslim lands and indiscriminately killing the Muslims.

2.6. Mujahideen’s paradigm:

If we consider the subject of threat i.e. Ummah, and its defense mechanism i.e. Jihad, and the threat perception all combined in one single entity as its worldview, then we may start distinguishing between two paradigms. One, is to see this entity as an anomaly in the current political situation or in other words in the prevalent international political structure by which we may simply conclude that this entity is a revisionist unit or a revolutionary unit. As Henry Kissinger would argue “A legitimate international order tends toward stability and peace; a revolutionary international order, toward instability and war. Revolutionary states^{xii} make international systems revolutionary; a revolutionary system is one that contains one or more revolutionary states”⁴⁵

The other paradigm which is adopted by Al-Qaeda and the Islamic State is in fact putting the aforementioned entity into the context of Islam’s history and it is their inductive reasoning which compels them to do so.^{xiii} From among these two organizations, the Islamic State is the major proponent of this paradigm due to the context that she was born into and the

^{xii} I would contend that a nationalist paradigm could be more expressive if this type of analysis were to be adopted, however, picking that argument in this paper may drag us to other areas that do not fall into the purview of this paper. Also see note i

^{xiii} Examples of this reasoning were mentioned in the quotations from Abu Mus’ab Al-Suri and Abu Bakr Al-Husayni Al-Qurashi Al-Baghdadi.

strategy that she is pursuing and the calamities she is facing. I would like to explain this paradigm through an example as follows^{xiv}.

In 15th of December 2015, in a meeting that took place between John Kerry, the U.S. Secretary of State and his counterpart Sergey Lavrov, the Russian Foreign Minister, Kerry remarks that: “On ISIL or Daesh, Russia and the United States agree that this is a threat to everybody, to every country, that there’s no negotiation. These are the worst of terrorists. They’ve attacked culture and history and all decency and they leave no choice but for civilized nations to stand together and to fight and push back and destroy them. And as President Obama said in New York, nothing would please us more than to resolve the differences of Ukraine and be able to move forward in the economic front and on other areas of important cooperation.”⁴⁶

However, the reality on the ground does not verify the veracity of the claims made. For this purpose, we may look at the statistics of the casualty of civilians killed in Syria since March 2011 until 31st of October 2015.

Toll of civilians killed in Syria since <u>March 2011 till October 31, 2015</u>		
Affiliation	Number of victims	percentage
Governmental forces	180,879	95.96%
Armed opposition groups	2,669	1.42%
Unidentified groups	2,002	1.06%
The Islamic State	1,712	0.91%
Kurdish forces	379	0.20%
Al-Nusra Front	347	0.18%
Russian forces	263	0.14%
International Coalition Forces	251	0.13%
<i>Source: Syrian Network for Human Rights⁴⁷</i>		

^{xiv} I need to acknowledge that I came up with this example for the purpose of simplicity and explanation after reading numerous examples from the materials I had to study and then cross-checking with my own observations through the perspective of this paradigm.

There are ample evidences that the Syrian regime, armed opposition groups (Free Syrian Army, Jaish Al-Islam, Shawat and et al), Kurdish forces, Russia, Iran, U.S. and international coalition forces, are all in one camp against the Islamic State. This camp with differing members was also present when IIS^{xv} was born. In this light if we take into consideration the threat perception of Al-Qaeda and the Islamic State we can come to the conclusion that the situation today and the alliance against these organizations (especially the Islamic State) is resembling the situation and the alliances that were formed to fight the newly born Muslim society 1400 years ago. Back then Kuffar, Mushrikin, Munafighin, Jewish and Christian communities and etc., even though they had their own differences and each one had its own particular reason to counter the Muslims, they were all united against the Muslim community and this is indeed what Al-Qaeda and the Islamic State are arguing about. Their strong Islamic discourse is coming from this type of perspective or paradigm because in this light, every verse from Quran in respect to war and Jihad used by these actors starts to make sense and becomes relevant to their cause. In this line of arguments, Al-Qaeda and the Islamic State are drawing attention to the co-operation between the so-called foes such as Iran and U.S. or U.S. and Russia in the Afghan, Iraq or Syrian theaters. As the Islamic State's spokesman, Shaykh Abu Muhammad Al-Adnani Al-Shami said: "Kufr in all its religions and sects joined against us. And every treacherous, cowardly person of desire and bid'ah (innovation) began to defame it (The Islamic State) and slander it."⁴⁸

There are a few scholars who seem to have grasped the logic of this latter paradigm, one of whom is Michael Scheuer, a former CIA intelligence officer and an adjunct professor at Georgetown University's Center for Peace and Security Studies. In his article "America First and survival or an endless losing war with Islam?" he argues:

^{xv} Islamic Iraq's State

“So we need to trash the idea of an ideological confrontation that we can win. What to do? Begin by understanding that today’s worldwide Islamist movement would not have been born, or once born gelled, or once gelled steadily grown without unrelenting U.S. and Western intervention in the Muslim world. Moscow started it by invading Afghanistan in 1979 and then Washington, Britain, France, Germany, and the UN picked up the dictatorial Soviet baton by installing a regime in Kabul that all but excluded the men who had fought for 15 years and finally defeated the Red Army and the Afghan communists. Having watched the mujahedin beat the Soviets, the Muslim world then saw the West intervene to deny the Afghans the fruits of the victory Allah had given them. That Western intervention, by the way, facilitated the rise and then the victory of the Taleban, the organization that is about to accept another Allah-provided victory over the hapless and averse-to-killing-our-enemies U.S. and NATO militaries.”

After mentioning several cases of Western intervention in Muslim countries he concludes that:

“There are other examples but the foregoing are enough to provide even aspiring-to-be-Fascist Neoconservatives with an understanding of why so many Muslims — militant, moderate, and nominal — perceive the United States and its allies as being determined to determine how (or if?) Muslims will live, organize their societies, conduct elections, interpret their religion, and supinely refuse to oppose the imposition by military force of what Obama, McCain, Cameron, Netanyahu, et al describe with straight faces as “Western values.”⁴⁹

In another piece “Islamic State is winning, America must soon use its one remaining option” he argues that:

“Three of the U.S. national government’s self-imposed and surely lethal handicaps in dealing with the Islamist threat are (a) a fixation on looking at the problem in a state-by-state manner; that is, what do we do in Iraq? What do we do in Afghanistan? What do we do in Libya? etc.; (b) an enduring but long-disproved assumption that in its war with Islam the West has time its side; and (c) an addiction to an unwise, unnecessary, and bankrupting interventionism that is the main motivator of the international Islamist movement, a phenomenon which was fathered and is still

nurtured by the West's so-called "allies and friends," Saudi Arabia, Kuwait, Qatar, etc." and after elaborating on interventions and eminent threat from Al-Qaeda and ISIS type organizations he suggests that to achieve peace "it is time to put America first and to return to General Washington's foreign-policy legacy by immediately proclaiming the end of U.S. interventionism, the termination of support for all states and groups in the Middle East, the U.S. withdrawal from NATO, and the resumption of America's most effective national security policy — strict neutrality."⁵⁰

Patrick Cockburn argues that "The ideology of al-Qaeda and ISIS draws a great deal from Wahhabism", "This religious intolerance and political authoritarianism", which is being propagated by Saudi Arabia and it "is taking over mainstream Sunni Islam"⁵¹. Patrick Cockburn should take into consideration that if the so-called Wahhabism is as bad as he says then why it has been able to take over the mainstream Sunni Islam?! The fact is that Islam does not have a sect or a methodology named Wahhabism. Muhammad Ibn Abdul Wahhab was an ordinary preacher who did not ever set a precedent in methodology or Islamic thinking. His status comes from his stubbornness in preaching Islam and undergoing calamities for that purpose. If Wahhabism is meant to be the official religious policy of Saudi Arabia, then the whole argument of Wahhabi threat is baseless. Because the mainstream Salafi strand in Saudi Arabia and the Madkhali strand are extremely pro government and peaceful and for that reason Al Qaeda and the Islamic State refer to them as "the palace scholars", "scholastic stooges", "Murtad^{xvi}", "Mushrik^{xvii}" or "sorcerers". The so called Wahhabism is not the cause to militancy of Al-Qaeda and the Islamic State and "The ideology of al-Qaeda and ISIS" dose not draw "a great deal from Wahhabism". The Islamic State is the most vocal critic of the Saudi Arabia's religious policy and the Salafi strand which is cultivated there by the government.

^{xvi} A person who denies Islam after accepting Islam. A Muslim who becomes Kafir.

^{xvii} "Mushrik" in Islamic terms refers to polytheism or someone who worships anything besides or instead of Allah.

“The regime’s palace scholars... are undoubtedly murtaddīn. Their apostasy is even grosser than any other, having studied the clear texts proving their collapse into kufr. They have sought to justify the apostasy of their masters with deception, embroidering their arguments with misquoted āyāt, ahādīth, and āthār from the Salaf. In the severest terms, they have advised the youth to reject the true meaning of jihād and to replace it with national pride. The “hukm of Allah” to them is whatever the Saudi governmental ministries have deemed acceptable. Therefore, it must be understood that these scholars are not simply silent bystanders in the background... Hiding behind claims of being “Sunni,” “Hanbali,” “Salafi,” and especially descendants and students of Muhammad Ibn ‘Abdil-Wahhāb, they are truly nothing more than slaves of tāghūt, waging war against the mujahidin in order to maintain the status quo. It was Ibn ‘Abdil-Wahhāb who mentioned among the ten greatest nullifiers of Islam, “Eighth: Backing the mushrikīn and aiding them against the Muslims. The evidence is His saying, {And whoever allies with them of you, then indeed he is of them. Verily Allah does not guide the tyrannical people}” [Ar-Rasā’il ash-Shakhsiyyah]. When asked about the clear disparity between the Qur’ān-backed creed of Muhammad Ibn ‘Abdil-Wahhāb and the Saudi regime’s constant coalition with crusaders against Muslims, palace scholar Hātim al-‘Awnī criticized Ibn ‘Abdil-Wahhāb and considered this one of the reasons for a required revision of the texts written by the historic scholars of Najd.”⁵²

2.7. Conclusion:

I find the causal factors to militancy of Al-Qaeda and the Islamic State as follows:

- 1- Imprisonment and execution of Muslims who rose against their governments – This includes opposition to domestic and foreign policy of these governments
- 2- Western states’ support to keep these governments in power
- 3- Occupation of Palestine
- 4- Military intervention in Muslim States by non-Muslim states

I also conclude that Islam does not have any causal factors to drive these organizations to militancy in an unprovoked fashion. The religious color in the discourse of these organizations should be analyzed by the context in which they are deemed by these organizations, in other words by recognizing their paradigm. A cross-case study of non-Muslim military organizations

would also lend support to this claim. Indeed, the ideas of freedom, justice and liberation are independent of spirituality and intrinsic to human nature. Even in a case when nation is defined in terms of religion, like Ummah. John Hutchinson and Anthony D. Smith observed that:

“Nationalism was, first of all, a doctrine of popular freedom and sovereignty. The people must be liberated—that is, free from any external constraint; they must determine their Own destiny and be masters in their own house; they must control own resources; they must obey only their own 'inner' voice. But that entailed fraternity. people must be united; they must dissolve all internal divisions; they must be gathered together in a single historic territory, a homeland; and they must have legal equality and share a single public culture. But which culture and what territory? Only a homeland that was 'theirs' by historic right, the land of their forebears; only a culture that was 'theirs' as a heritage, passed down the generations, and therefore an expression of their authentic identity”⁵³

After distinguishing the causal factors to militancy and the paradigm utilized by the Islamic State, I may move to the next chapter to find why an entity such as the Islamic State with her particular attributes is a challenge to the international society of states.

In agreement with my conclusion in this chapter Abdullah Saeed in an article to categorize contemporary trends in Islam mentions “militant extremists” whose:

“Worldview that is characterized by a deep sense of injustice against Muslims and a profound sense of powerlessness surrounded by a world, they believe, that aims at obliterating Islam and Muslims. This worldview is enhanced by a narrative that reinforces this sense of injustice from the time of the Crusades, to colonialism, to post-colonial domination of Muslims by the “Christian” West. This view includes a belief that the West is committed to the domination and subjugation of Muslims, the ‘stealing’ of Muslim lands and resources and the economic, military and political control of Muslims to prevent any challenge to this domination. Militant extremists also believe that the West is committed to constraining the spread or growth of Islam through supporting anti-Muslim missionary activities. They also feel betrayed by fellow Muslims who ‘collaborate’ with the West against Muslims. They are motivated by a particular understanding

of jihad whose theater is global and by a belief that less resourceful people can defeat a powerful enemy using terror as a tool to achieve specific objectives. Their thought is reflected in Usama Bin Laden's "fatwa" against the Americans in which he said: "The ruling to kill the Americans and their allies — civilians and military — is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque [one of Islam's most holy places, in Jerusalem] and the Holy Mosque [in Mecca] from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim. This is in accordance with the words of Almighty God, 'and fight the pagans all together as they fight you all together,' and 'fight them until there is no more tumult or oppression, and there prevail justice and faith in God.'"⁵⁴

CHAPTER 3

THE ISLAMIC STATE VS. INTERNATIONAL SOCIETY OF STATES

3.1. Introduction

In this chapter, I will try to evaluate the Islamic State's ideology and to some extent her *modus vivendi* in respect to Hedley Bull's modules of international society of states. The modules are derived from Hedley Bull's book, *the Anarchical Society*¹. He argues that states create system of states based on sufficient contact among them and sufficient impact that they make on one another's decision. This is similar to what Kenneth Waltz in his book "*Theory of International Politics*"², calls as socialization and competition. From *the Anarchical Society* we can derive that system of states helps with the creation of society of states when they profess three main attributes in their interaction:

- a- being conscious of common interests and values,
- b- being bound by common set of rules in their relations,
- c- Share in the working of common institutions.

The purpose of the society of states or the international society is self-preservation or in other words:

- a- maintaining internal and external sovereignty of states
- b- maintaining peace or refrain from going to war
- c- maintaining security (subjective & objective)
- d- Pacta sunt servanda

In general, it could be said that the goal of the international society is to safeguard the identity of its constituting units or states and her attributes. These attributes could be considered in the category of "capabilities" which Kenneth Waltz defines in terms of ability to performing similar tasks, however, he argues that socialization and competition are requirement for being part of the system. Based on the paradigm as described in the previous chapter, I will try to

clarify how the Islamic State is challenging these pillars. To that end, the three following modules will be in my focus.

1- Sovereignty. Hedley Bull mentions “primary/elementary goals” of states as security, *pacta sunt servanda* and sovereignty. While Kenneth Waltz mentions self-preservation or internal and external sovereignty in the self-help system as the primary goal for every state. Thereby, the common denominator is sovereignty which is the basic common interest and value on its own for the units of the system of international society of states.

2- The common set of rules in the relation of states signifies that a pattern or an order exists in the interaction among states. This pattern consists of mutual respect for *Pacta sunt servanda*, restrictions on the application of force, mutual recognition of territorial integrity and states’ independence.

3- H. Bull identifies the balance of power, management of order by great powers, international law and war as the common institutions of the international society of states. The Islamic State’s position on international law and International organizations will be clarified in the 4th chapter.

In section 3-2, first I will lay the theoretical ground and then I will introduce the Islamic State’s problematic in respect to sovereignty of the current states. Next, there will be a description of a solution by the Islamic State to the problematic. Here, internal and external sovereignty will be discussed. Finally, I will elaborate on malfunctioning Iraqi and Syrian governments *vis à vis* the Islamic State’s success. This is for the purpose of understanding whether the Islamic State is a real threat to the sovereignty of Iraq and Syria. I will also address some of the threat perceptions and misunderstandings in this respect.

In section 3-3, I will address the Islamic State’s position in respect to *Pacta sunt servanda*, restrictions on the application of force, the balance of power and management of order by great powers and finally I’ll point out common threat perceptions in this regard.

I have to remark that the Islamic State's view of law and world order may resemble the Western solidarist view of the international society of states. The Western solidarist view gives general superiority to natural laws based upon Judeo-Christian faith. However, it must be noted that this is what I have not touched upon in this paper because to substantiate that the views of the Islamic State is in conflict with the Western born solidarist views, one needs to have an in-depth knowledge of Judeo-Christianity and Islam on the one hand and on the other hand a clear cut distinction between Judeo-Christian natural law and an Islamic natural law. For this reason, I intend to consider the paradigm of the Islamic State in conflict with the pluralist view of the international society of states presented by Hedley Bull rather than driving the argument along the lines of a conflict between solidarist and pluralist views. Even though, I do not deny the existence of compelling solidarist perceptions in the paradigm adopted by the Islamic State.

3.2. Sovereignty

Headley Bull explains sovereignty as follows:

“The starting point of international relations is the existence of states, or independent political communities each of which possesses a government and asserts sovereignty in relation to a particular portion of the earth's surface and a particular segment of the human population. On the one hand, states assert, in relation to this territory and population, what may be called internal sovereignty, which means supremacy over all other authorities within that territory and population. On the other hand, they assert what may be called external sovereignty, by which is meant not supremacy but independent of outside authorities. The sovereignty of states, both internal and external, may be said to exist both at a normative level and at a factual level. On the one hand, states assert the right to supremacy over authorities within their territory and population and independence of authorities outside it; but, on the other hand, they also actually exercise, in varying degrees, such supremacy and independence in practice. An independent political

community which merely claims a right to sovereignty (or is judged by others to have such a right), but cannot assert this right in practice, is not a state properly so-called.”³

According to the abovementioned passage, internal sovereignty is supreme authority within a territory and population, independent of any outside force. According to The Penguin Dictionary of International Relations authority is “Person or institution which legitimizes acts or commands”⁴ and the supreme institution in every state is in fact the government.¹ This is also in line with H. Bull’s statement that “states, or independent political communities each of which possesses a government and asserts sovereignty in relation to a particular portion of the earth's surface and a particular segment of the human population”. Therefore, internal sovereignty is threatened when the government and its functions such as acts of legitimization and enforcing its jurisdiction over the territory are threatened by an outside force.

To find the Islamic State’s view on sovereignty I have relied on officially published speeches of the top leaders of the Islamic State to avoid leaving room to assumptions that don’t add up to actuality and even more so irrelevant to the correlation explained in the 2nd chapter. The discernable pattern in the official speeches of the top leaders of the Islamic State starts with defining the problematic and then explaining the solution. This pattern is extensively elaborated on in the primary sources from different perspectives. I have tried to portray the pattern in the next paragraphs. The pattern includes a three stage reasoning. Basically, it begins with describing the sufferings of the Ummah and her subjugation, then follows the incompetence of the governments to attend to Ummah’s plight and lack of external sovereignty, finally the establishment of the Khilafah or the Islamic State as the solution.

For the Islamic State the current states have failed to protect the Muslim nation (Ummah) and establishment of Khilafah is considered a major turning point for Ummah. Therefore, the official spokesman for the Islamic State, Shaykh Abū Muhammad al-Adnānī ash-Shāmī,

¹ Explanations from legal perspective is provided in the 4th chapter.

argues that “The time has come for those generations that were drowning in oceans of disgrace, being nursed on the milk of humiliation, and being ruled by the vilest of all people, after their long slumber in the darkness of neglect – the time has come for them to rise. The time has come for the Ummah of Muhammad (peace be upon him) to wake up from its sleep, remove the garments of dishonor, and shake off the dust of humiliation and disgrace”⁵. According to the Islamic State, the current political regimes not only have distanced Ummah from its source of identity i.e. Islam, but furthermore they have seized power in accordance with the plot of non-Muslims who carved up the Middle East and appointed their own selected ones to rule and thereby enslaved the Ummah. The Islamic State leader Shaykh Abu Bakr Al Husayni Al-Qurashi Al- Baghdadi says:

“Indeed the Muslims were defeated after the fall of their Khilāfah (caliphate). Then their state ceased to exist, so the disbelievers were able to weaken and humiliate the Muslims, dominate them in every region, plunder their wealth and resources, and rob them of their rights. They accomplished this by attacking and occupying their lands, placing their treacherous agents in power to rule the Muslims with an iron fist, and spreading dazzling and deceptive slogans such as: civilization, peace, co-existence, freedom, democracy, secularism, Baathism, nationalism, and patriotism, among other false slogans. Those rulers continue striving to enslave the Muslims, pulling them away from their religion with those slogans. So either the Muslim pulls away from his religion, disbelieves in Allah, and disgracefully submits to the manmade shirk (polytheistic) laws of the east and west, living despicably and disgracefully as a follower, by repeating those slogans without will and honor, or he lives persecuted, targeted, and expelled, to end up being killed, imprisoned, or terribly tortured, on the accusation of terrorism... Terrorism is to worship Allah as He ordered you. Terrorism is to refuse humiliation, subjugation, and subordination [to the Kuffārⁱⁱ – infidels]. Terrorism is for the Muslim to live as a Muslim, honorably with might and freedom. Terrorism is to insist upon your rights and not give them up.”⁶

ⁱⁱ Plural of Kafir

His statements also point out the disappointment of the Islamic State with the common political discourses and governing systems for they have led to the sufferings of Ummah. Abu Bakr Al-Baghdadi continues to argue that:

“But terrorism does not include the killing of Muslims in Burma and the burning of their homes. Terrorism does not include the dismembering and disemboweling of the Muslims in the Philippines, Indonesia, and Kashmir. Terrorism does not include the killing of Muslims in the Caucasus and expelling them from their lands. Terrorism does not include making mass graves for the Muslims in Bosnia and Herzegovina, and the slaughtering of their children. Terrorism does not include the destruction of Muslims’ homes in Palestine, the seizing of their lands, and the violation and desecration of their sanctuaries and families. Terrorism does not include the burning of masājid in Egypt, the destruction of the Muslims’ homes there, the rape of their chaste women, and the oppression of the mujahidin in the Sinai Peninsula and elsewhere. Terrorism does not include the extreme torture and degradation of Muslims in East Turkistan and Iran [by the rāfidahⁱⁱⁱ], as well as preventing them from receiving their most basic rights. Terrorism does not include the filling of prisons everywhere with Muslim captives. Terrorism does not include the waging of war against chastity and hijab (Muslim women’s clothing) in France and Tunis. It does not include the propagation of betrayal, prostitution, and adultery. Terrorism does not include the insulting of the Lord of Mightiness, the cursing of the religion, and the mockery of our Prophet (peace be upon him). Terrorism does not include the slaughtering of Muslims in Central Africa like sheep, while no one weeps for them and denounces their slaughter. All this is not terrorism. Rather it is freedom, democracy, peace, security, and tolerance! Sufficient for us is Allah, and He is the best Disposer of affairs.”⁷

ⁱⁱⁱ Rafidhi (singular form) were a group of people in 740 AD who were rejecting the first three Caliphates of Islam. It is used as a derogatory remark in reference to Shias.

In fact he is referring to commonly denounced double standards^{iv} in the political *modus operandi* that is also mentioned by Hasan Hanafi in his article “Multilateralism: An Islamic Approach” in which he argues that: “A universal code cannot be applied in one instance in the Gulf in defense of Kuwait but be suspended with regard to Palestine and South Africa. It cannot be applied to protect the Kurds and the Shi’ites in northern and southern Iraq but remain a dead letter in regard to genocide of Muslims in Bosnia-Herzegovina.”⁸

For the Islamic State the current leaders of Muslim states are Taghut or the one who has surpassed the limits of oppression⁹ and therefore they are Murtad or a Muslim who has started to deny Islam or in other words a Muslim who has become Kafir. The Islamic State argues that these leaders do not have the necessary legitimacy to rule over Ummah, moreover they are acting in the interests of non-Muslims. This could mean that for the Islamic State, the current regimes in the Muslim countries lack external sovereignty. Abu Bakr Al- Baghdadi in one of his speeches said:

“America, Europe, Australia, Canada, their apostate tails and slaves from amongst the rulers of the Muslims' lands were terrified by the Islamic State. The Jews^v were frightened; they feared for their economy. They feared for the Muslims' wealth and the goods of our lands, which they plunder, suck dry, enjoy themselves with, and fight us with via their agents from amongst the treacherous rulers of the Muslims' lands. They fear for their security. They fear the revolt of the Muslim peoples [against these rulers]. They fear their defeat. They fear the return of the Khilafah and the return of Muslims to pioneering and leadership...the weakness of the Crusaders and their allies lies in their need for the criminal sorcerers from amongst the scholars of the Tawaghit^{vi}

^{iv} Some authors tend to argue that this kind of discourse by Abu Bakr Al-Baghdadi is an opportunism or a smart political gimmick. But this is in stark contrast to their own very argument in which they claimed the leaders in the Islamic State were criminals, unintelligible and far from political reality since they only have limited or distorted knowledge of Islam and stories in Islamic literature. But as we can see in actuality, so far the Islamic State's success in many respects comes from her ability to aggregate and articulate values. I will mention some examples as we move on.

^v Since the assumptions of the paradigm are on the basis of religious discourse, one needs to distinguish between Jewish identity and Judaism as a religion, and take the latter one into consideration. If this is not possible, then we may also refrain from distinguishing between Islam as a culture and Islam as a religion.

^{vi} Plural form of Taghut.

rulers of the Muslims' lands, so that they bewitch the peoples' eyes and deceive the general Muslims with fatwa issued from the Jews and disseminated by the Crusaders, claiming that this war is not a crusade and that these people are Khawarij^{vii} and corruptive, not mujahidin.”¹⁰

In a different speech and in respect to lack of external sovereignty Abu Bakr Al-Baghdadi openly argues that: “O Muslims, the apostate tyrannical rulers who rule your lands in the lands of the Two Holy Sanctuaries (Mecca and Medina), Yemen, Shām (the Levant), Iraq, Egypt, North Africa, Khorasan, the Caucasus, the Indian Subcontinent, Africa, and elsewhere, are the allies of the Jews and Crusaders. Rather, they are their slaves, servants, and guard dogs, and nothing else. The armies that they prepare and arm and which the Jews and Crusaders train are only to crush you, weaken you, enslave you to the Jews and Crusaders”¹¹ and in this line of argument the spokesman of the Islamic State, Shaykh Abū Muhammad al-Adnānī ash-Shāmī adds that: “The Crusader-Safavid alliance is clear today. Here is Iran with its Great Satan America dividing the regions and roles amongst each other in the war against Islam and the Sunnis. The Crusaders and Jews did not suffice with the Rāfidah seizing Baghdad, Damascus, Beirut, and Sanaa. They want them to take Mecca and Medina. They want them to take Pakistan and Afghanistan. They want them to take Indonesia. Yes, Indonesia, if only you knew... The Iranians came to take revenge on the Iraqis for the eighties. They came to take revenge on the Sunnis for al-Husayn (may Allah be pleased with him) whom they killed and over whom they have wept and beaten themselves for hundreds of years...”¹²

Eventually to overcome the plight of Ummah and prevent the deterioration of her situation, the Islamic State or Khilafah was established to abolish all the current governments from Muslim states and remove the borders that divides Ummah. The Islamic State relies on Quranic verses and renowned Muslim scholars’ opinion in respect to Khilafah and applies the

^{vii} Khawarij were a group of people who doubted Prophet Muhammad’s piety and honesty. They considered themselves to be the true Muslims. Later they fought mainstream Muslims to be defeated.

traditional ways of choosing a Khalifah or Caliph. The spokesman of the Islamic State, Shaykh Abū Muhammad al-Adnānī ash-Shāmī explains that:

“Allah (the Exalted) said, {And mention when your Lord said to the angels, ‘Indeed, I will make upon the earth a khalīfah’} [Al-Baqarah: 30]. Imam al-Qurtubī said in his tafsīr (Quranic exegesis): ‘This verse is a fundamental basis for the appointment of a leader and khalīfah (caliph) who is listened to and obeyed so that the Ummah is united by him and his orders are carried out.’ Therefore, the shūrā (consultation) council of the Islamic State studied this matter after the Islamic State – by Allah’s grace – gained the essentials necessary for khilāfah, which the Muslims are sinful for if they do not try to establish. In light of the fact that the Islamic State has no shar’ī (legal) constraint or excuse that can justify delaying or neglecting the establishment of the khilāfah such that it would not be sinful, the Islamic State – represented by ahlul-halli-wal-‘aqd (its people of authority), consisting of its senior figures, leaders, and the shūrā council – resolved to announce the establishment of the Islamic khilāfah, the appointment of a khalīfah for the Muslims, ... We clarify to the Muslims that with this declaration of khilāfah, it is incumbent upon all Muslims to pledge allegiance to the khalīfah Ibrāhīm and support him (may Allah preserve him). The legality of all emirates, groups, states, and organizations, becomes null by the expansion of the khilāfah’s authority and arrival of its troops to their areas. Imam Ahmad (may Allah have mercy upon him) said, as reported by ‘Abdūs Ibn Mālīk al-‘Attār, ‘It is not permissible for anyone who believes in Allah to sleep without considering as his leader whoever conquers them by the sword until he becomes khalīfah and is called Amīrul-Mu’minīn (the leader of the believers), whether this leader is righteous or sinful.’”³

Furthermore, by establishing Khilafah the Islamic State aims to put an end to an era of domination of non-Muslims over the affairs of Ummah or to provide external sovereignty for Ummah. As Abu Bakr Al-Baghdadi says: “Raise your head high, for today – by Allah’s grace – you have a state and khilāfah, which will return your dignity, might, rights, and leadership.”⁴

What may amount to threatening external sovereignty by the Islamic State might be her intention to remove the current political borders that she finds to be the remnants of the Sykes-

Picot agreement and also a plot to guard Israel in its occupation of Palestine¹³. In the light of what was mentioned above, these borders have been drawn by colonial states to divide the same people who are now being governed by different regimes which are being supported by the very states that drew the borders. However, it must be noted that the Islamic State expands by accepting pledges of allegiance, selectively, from Mujahideen who have already rose against their governments and later by supporting them through funding or logistics. The spokesman of the Islamic State, Shaykh Abū Muhammad al-Adnānī in the event of removing the check points and the border fences between Iraq and Syria^{viii} said:

“And nothing is after the removal of these borders, the borders of humiliation, and the crushing of this idol, the idol of nationalism, except khilafah upon the prophetic methodology... We swear, we swear that we will destroy the wall, fill the ditch, and remove the barbwire, the borders will be erased from the map, and removed from the hearts... Alhamdulillah, today we are happy to participate in destroying the borders placed by the Tawaghit to prevent the Muslims from traveling in their lands. The Tawaghit broke up the Islamic Khilafah and made it into countries like Syria and Iraq, ruled by man-made laws. Alhamdulillah, Allah blessed the mujahidin with destruction of these borders. Today we begin the final stage after the Ummah was divided. Alhamdulillah, we've begun today to unite in the face of the plots of the kuffar. Their plot was to divide and conquer. That is what they had done with us.”¹⁴

After the intervention by the international coalitions (Western plus Eastern, each independently), threat to external sovereignty of these states is rhetorically expresses by Shaykh Abū Muhammad al-Adnānī in one of his speeches:

“O Crusaders, if you are betting on Salahuddīn, hoping for Mosul, dreaming of Sinjār, al-Hawl, Tīkrīt, or al-Hawājah, or dreaming of Mayādīn, Jarābulus, al-Karmah, Tal Abyad, al-Qā'im, or Darnah, or dreaming of capturing a forest in the jungles of Nigeria or capturing nests of wild plants in the desert of Sinai, then know that we want Paris – by Allah's permission – before Rome

^{viii} Islamic State refers to the borders of the Middle Eastern states as “Sykes-Picot borders” and this has been among the mostly censured points in the Islamic State's literature.

and before Spain, after we blacken your lives and destroy the White House, the Big Ben, and the Eifel Tower, by Allah's permission, just as we destroyed the palace of Chosroes before. We want Kabul, Karachi, the Caucasus, Qom, Riyadh, and Tehran. We want Baghdad, Damascus, Jerusalem, Cairo, Sanaa, Doha, Abu Dhabi, and Amman. The Muslims will return to mastership and leadership in every place. Here is Dābiq, Ghouta, and Jerusalem. There is Rome. We will enter it and this is not a lie.”¹⁵

Here I need to draw the attention to the reactionary nature of many of the Islamic State's tactical moves and statements, an example of which is just mentioned above. Also it needs to be taken into consideration that Pro-war rhetoric in order to be reckoned with, needs practical tactical moves on the ground in the relevant respect without which taking the rhetoric at their face value might not be more than baseless assumptions for a mistaken action that will draw further retribution in response. In a speech Shaykh Abū Muhammad al-Adnānī said that “the crusaders strike the lands of the Muslims not differentiating between a civilian and fighter?” and addresses the population in the Western states' that:

“O Americans, and O Europeans, the Islamic State did not initiate a war against you, as your governments and media try to make you believe. It is you who started the transgression against us, and thus you deserve blame and you will pay a great price. You will pay the price when your economies collapse. You will pay the price when your sons are sent to wage war against us and they return to you as disabled amputees, or inside coffins, or mentally ill. You will pay the price as you are afraid of travelling to any land. Rather you will pay the price as you walk on your streets, turning right and left, fearing the Muslims. You will not feel secure even in your bedrooms. You will pay the price when this crusade of yours collapses, and thereafter we will strike you in your homeland, and you will never be able to harm anyone afterwards. You will pay the price, and we have prepared for you what will pain you.”⁴

In addition, threat to internal and external sovereignty of some states is verifiable in case there are solid evidences of the Islamic State's involvement or if it is credible to accept her

claim of responsibility for launching the attacks within the territory of those states and against the nationals from those states on a different territory in a sense that the mother state has not been able to warn her citizens abroad in anyway. According to the statements of claiming responsibility and the propaganda material that was distributed in the aftermath of the attacks in the West, I may conclude that the attacks are simply in retaliation to bombings and military intervention by the Western states against the Islamic State. This is well expressed in the tweeter campaign of the *Baghiya* family (Online sympathizers of the Islamic State) per se in the aftermath of the Brussels attacks. The standing out tweet read: “You bomb us in the East so we bombard you in the West. An eye for an eye, a tooth for a tooth...”^{ix} turnabout is fair play. The Islamic State was not a genuine threat to the sovereignty of the Western states (in general, the international coalition against the Islamic State); they waged war on the Islamic State and they will pay the price for it. In this case, all the other arguments that try to obfuscate the basic correlation between the cause and effect are merely a game of playing with words to muster support for war, eliminate opposition to war campaigns and justify intervention in the Middle East and domestic affairs of other nations. This will become very clear as I elaborate on the Islamic State’s legitimacy as the sole replacement for the governments in Iraq and Syria. Arguments that mostly lie on the morality of certain portion of humanity should not blind us to the fact that the other portion of the humanity also has a hefty volume of such moral arguments that are yet to be allowed for hearing and their absence from the mass media is not a proof of their non-existence. When information are not made verifiable and available for studying a particular subject or incident and most importantly its contexts, then this does not justify assuming monopoly on the nature of human intellect to label the rest as “terrorist” or

^{ix} “#Bruxelles #Brussel #Brussels #Talion Vous nous bombardez en Orient donc on vous bombarde en Occident. Oeil pour œil, dent pour dent...”

something^x. In lieu of that, the pressing questions should be “why things happen?” and “why there’s lack of information?”

3.3. State and Nation failure *vis a vis* Islamic State’s success

So far, to understand the problematic it was necessary to rely on the primary resources in order to ward off any input by any third party’s interpretation or assumption or nonsensical fantasizing. For the following part I will be using different resources that warn us about the threat of the Islamic State. I need to underline that, as it will be seen by the end of this section, there’s a consistency in the arguments in terms of the problematic as described earlier.

State failure and nation failure should be explained to help us better understand this section:

“*State failure* can be defined as the failure of governments to deliver political goods to citizens on a scale likely to undermine the legitimacy and the existence of the state itself. State failure occurs in respect to a wide range of political goods, of which the most crucial are the provision of security, a legal system to adjudicate disputes, provision of economic and communication infrastructures, the supply of some form of welfare policies, and opportunities for participation in the political process. The degree to which states deliver these political goods significantly influences their relative strength, weakness, or failure.

Nation failure, on the other hand, occurs because nation-states’ cultural projections of their nationhood are no longer convincing to many, and there is no consensus on their cultural traditions, customs, symbols, rituals, and historical experiences. This allows competing nationalisms to emerge, often mutually exclusive, that seek to replace the former common identity”¹⁶

^x “The ignorant are fond of making generalizations to include those who would not be party to their pedantic musings.” Ozwell E. Spencer – Founder of Umbrella Co. – Resident Evil 5

Apart from the rhetorical explanations provided by the top leaders of the Islamic State about the illegitimacy of the governments in the Muslim states, we can observe from the facts that indeed in practice this is also true esp. in the regions that the Islamic States has been able to establish a significant foothold. As stated earlier, the Islamic State expands by the pledge of allegiance given by the Mujahideen to the Khalifa or caliph i.e. Abu Bakr Al Baghdadi. Sizeable number of Mujahideen are not necessarily dispatched from Iraq and Syria, to Afghanistan, Yemen, Caucasus or Libya to set up a franchise. However, this also doesn't mean that there are no foreigners fighting under the same banner in those regions. The inherent tribal tradition, common culture, language and common religion among the people in the region and also the system of belief should be taken into consideration when it comes to foreign fighters' trespassing the borders which for them is a colonial heritage to divide and conquer^{xi}. The point I'm trying to get at is that, due to the failure of the local governments and strong appeal of the Islamic State, these franchises have been established to substitute the local states for the Islamic State i.e. they choose the Islamic State instead of foreign backed governments and coalitions. For example, in Libya, while there is no unison over the future of the country, the Western states have decided to recognize and aid one coalition over the others. The wide appeal of the Islamic State comes from her ability to aggregate and articulate the values of these stigmatized portions of the people that are labeled terrorist by the foreign armies or their local allies. We may also argue that these stigmatized portions are the ones who are not considered friendly. We can see the best examples of this in Iraq and Syria.

Take into consideration the Iraqi army, "On June 6, 2014, ISIS fighters began an attack on Mosul, the second-largest city in Iraq. Four days later, the city fell. It was an astonishing victory by a force numbering some 1,300 men against a nominal 60,000-strong force including the Iraqi army and federal and local police."¹⁷ This has not been the case only in Mosul but

^{xi} As they say: "*We are Mujahideen sans frontiers*"

also Tikrit, Baiji and etc. While soldiers are sent to be the cannon fodders for the Islamic State jihadists, the commanders find themselves smarter than their soldiers and decide to escape. As Patrick Cockburn writes “Defeat became irreversible on July 9, when three top Iraqi generals—Abboud Qanbar, the deputy chief of staff, Ali Ghaidan, the ground forces commander, and Mahdi Gharawi, the head of Nineveh Operations—climbed into a helicopter and fled to Kurdistan. This led to a final collapse of morale and the disintegration of the army forces. June 11 saw a reflection of the incapacity of the Maliki government to know what was happening or take a decision”¹⁸. The normal perception is that a national army is supposed to defend the sovereignty of the state against foreign aggression but in Iraq, the Iranian and U.S. or generally the foreign backed government mobilizes the army against her own people that are nominally the source of legitimacy. This must be the case when the source of legitimacy for a state lies outside her borders. As a result:

“In early June, Abbas Saddam, a private soldier from a Shia district in Baghdad serving in the 11th Division of the Iraqi army, was transferred from Ramadi to Mosul.... But on the morning of June 10 his commanding officer told the men to stop shooting, hand over their rifles to the insurgents, take off their uniforms, and get out of the city. Before they could obey, their barracks were invaded by a crowd of civilians. “They threw stones at us,” Abbas recalled, “and shouted: ‘We don’t want you in our city! You are Maliki’s sons! You are the sons of mutta! [the Shia tradition of temporary marriage much derided by Sunni] You are Safavids! You are the army of Iran!’ The crowd’s attack revealed that the fall of Mosul was the result of a popular uprising as well as a military assault. The Iraqi army was detested as a foreign occupying force of Shia soldiers, regarded in Mosul as creatures of an Iranian puppet regime led by Maliki. Abbas says there were ISIS fighters—called Daash in Iraq, after the Arabic acronym of their name—mixed in with the crowd. They said to the soldiers: “You guys are OK: just put up your rifles and go. If you don’t, we’ll kill you.” Abbas saw women and children with military weapons; local people offered the soldiers dishdashes to replace their uniforms so that they could flee.”¹⁹

But this has not been only the problem with the army in Iraq but also a problem with “Iraq’s one million-strong security forces” that “had been so ineffective against the jihadists”. As a result of deep rooted corruption, racketeering and lack of principle. Patrick Cockburn mentions that when “asked about the Iraqi military’s cause of defeat, one recently retired Iraqi general was emphatic: ‘Corruption! Corruption! Corruption!’” and then the general concludes that “Iraq did not really have a national army,” which led to the fact that “about half the country is not really controlled by the government” as Dr. Mahmoud Othman, the veteran MP told Cockburn in early 2013.

Meanwhile, in Syria the Al-Assad regime uses chemical and barrel bombs against the Syrian people and doesn’t shy away from calling others such as Hezbollah in Lebanon, Iran and Russia to join the killings.

2011 – 2016: Who’s Killing Civilians In Syria?		
Numbers documented from <u>15 March 2011 to 01 March 2016</u>		
Affiliation	Number of victims	Percentage
Regime	183,827	94.7%
Rebels	2,959	1.5%
The Islamic State	2,196	1.1%
Unknown	2,159	1.1%
Russia	1,984	1%
Kurdish forces	416	0.2%
Al-Nusra Front	356	0.2%
U.S. led coalition	311	0.2%
<i>Source: Syrian Network for Human Rights http://sn4hr.org/</i>		

Let us have a look at the chart “2011 – 2016: Who’s Killing Civilians In Syria?” prepared by Syrian Network for Human Rights. Apparently the report has documented the number of casualties since 15th of March 2015 up until 1st of March 2016 in the chart above. If for the sake of argument, we assume that their report is reliable then we may conclude that:

- According to the chart the Islamic State accounts for killing 2,196 people.
- The regime accounts for killing 183,827 people.

Unfortunately, the chart does not indicate the Iranian's and Hezbollah's contribution to the killings. Reportedly "in July 2015, the Syrian President Bashar al-Assad made a formal request to Russia for airstrikes" and Russia started military intervention as of 30th of September 2015. Within 5 months between 30th of September 2015 and 1st of March 2016 Russia accounts for killing 1,984 people. This means that in five months Russia at the request of the Al-Assad regime has killed 90.35% of the people that the Islamic State could kill in five years. In total, the pro-regime coalition has killed 185,811 people (according to the chart).

- Since the chart distinguishes between, rebels, Al-Nusra front and unknown parties and etc., we can conclude that The Western front that includes U.S. led coalition and her "Rebel" plus Kurdish allies, in total account for killing 3,686 people. Meaning that in five years the Western coalition has killed 40.42% more than the Islamic State.^{xii}

On 4th of May 2016 in Geneva, Jan Egeland, Special Advisor to the United Nations Special Envoy for Syria in a briefing session was asked by a journalist that: "Is there any system of government in the world where you can legitimately deny aid to 900,000 of your own people and continue to run your country. I mean, how can this government do this and be seen as a legitimate option for the people?"²⁰

So far was the incompetence and behavior of the Iraqi and Syrian governments towards their population (nominal source of legitimacy), on the other hand Jessica D. Lewis of the Institute for the Study of War, "in a study of the jihadi movement at the end of 2013", described the Islamic State^{xiii} as "an extremely vigorous, resilient and capable organization that can

^{xii} In five years, the pro-regime alliance and the Western alliance have killed 189,497 people while the Islamic State has only killed 2,196 people in the same period.

^{xiii} The report was written in 2013 and she has referred to the organization as "Al-Qaeda in Iraq". This is before the organization was renamed to Khilafah or the Islamic State in June 2014.

operate from Basra to coastal Syria.”²¹ In this respect Sergeant Benjamin Hanner from U.S. explains:

“It started in March 2007, when a US Stryker battalion and a paratrooper squadron moved in to take the city, encountering a storm of RPG and sniper fire. The enemy targeted US forces "in small numbers," using "subterfuge," Sergeant 1st Class Benjamin Hanner told the Washington Post. "They're controlled, their planning is good, their human intel network and early-warning networks are effective." They were also skillful at using decoys. They laid twenty-seven IEDs in a one-mile expanse of road but ensured that only one out of every three or four bombs was operational. "I have never seen, before or since, organization like that," Shawn McGuire, a staff sergeant recalled to Gordon and Trainor. "They were organized. They were well trained. They shot. They could hit things. Instead of just poking around corners and shooting and running, they would bound and maneuver on you. It was almost like watching US soldiers train.”²²

The Islamic State has been able to address peoples’ concerns and rally them behind her own flag. The Iraqi deputy national security advisor, Dr. Safa Rusoul Hussein told Cockburn that “when 100 ISIS fighters take over an area they normally recruit five or ten times their original force. These are not frontline fighters and they may join just to defend their families, but ISIS numbers grow rapidly”²³ and as Haasn and Weiss remark in their book “US Marines had famously helped local Iraqis raze a large statue of Saddam in Baghdad's Paradise Square, with one even briefly, controversially, covering the monument with the Stars and Stripes. Suddenly Islamists had just toppled a bronze statue of Hafez al-Assad and hoisted the Muslim shahada, the black flag with Arabic script reading, "There is no god but God, and Muhammad is His messenger," to a flagpole in another Arab metropolis ruled by Baathists.”²⁴

“In the first days after the fall of Mosul” recalls Cockburn, “A Baghdad newspaper reported that no fewer than seven ministers and forty-two MPs had taken refuge in Jordan along with their families”. On the other hand while “Sunnis feel under assault-from al-Assad, Khamenei, and, up until recently, al-Maliki and devoid of any committed or credible political

stewards, Their religious and political powerhouses, meanwhile, are perceived as complicit, politically emasculated, discredited, or silent: the Gulf Arab states, which either have Sunni majorities or Sunni-led governments, have been reduced to begging the United States for intervention²⁵, we observe that the Islamic State stays to take care of her constituency instead of fleeing even though the society of states have come hand in hand to destroy it. The spokesman of the Islamic State, Shaykh Abū Muhammad al-Adnānī in a speech said “Under the earth is better than being on it if we give the land and people to the Rafidis or Crusaders”. So far they have truly done so. They have not left their constituency at the mercy of Syrian and Iraqi regime or the proxies of Iran or Western states. As Hassan and Weiss note:

“According to several residents from Minbij who spoke to the authors, locals sympathized with ISIS and lamented its expulsion. "People did not see anything but good things from ISIS, even though they did not like its religious ideas," said resident Shadi al-Hassan. "They also know that those who fought it were the worst people in the area."... Hard as it may be to believe, given the luridness of ISIS's atrocities, Syrians actually flocked in large number to join the jihadist group or work with it at the local level. ISIS members had different roles: some were dedicated to fighting, while others acted as security, administered medical services, operated bakeries, ran Sharia courts, and so on. For the local community, the difference was quickly felt: ISIS provided safety and security; its methods of justice were swift, and nobody was exempt from punishment, including its own fighters who deviated from the strict moral code it had laid down. Consequently, kidnappings, robberies, and acts of extortion all but disappeared.”²⁶

The importance of the Islamic State may further come into sight when it is compared to Free Syrian Army (FSA) which is the Western states’ proxy in Syria and at the mean time an ally of Al-Nusra front, the Al-Qaeda’s^{xiv} franchise in Syria. A comparison for this purpose is provided by Hassan and Weiss:

^{xiv} I’d rather say “Dhawahiri’s Al-Qaeda” because of the shift in the organization’s policies since the demise of its former leader Shaykh Usama Bin Laden. This happens to be the Islamic State’s opinion too.

"If you're an FSA commander and you have a civilian relative, [FSA and other rebels] would accept mediation," said Hassan al-Salloum, a former rebel commander from Idlib residing in Antakya, Turkey, referring to the time when ISIS was still a marginal player in Syria. "But with ISIS, if I complain about an FSA member, they would go and bring him to interrogate him. They would not accept mediation. People started to go to complain to them. People made them intervene. A person comes to them and asks for help. FSA would not do it. ISIS gets you what you want, and then you start talking about it. If I hit one of my soldiers, he goes to ISIS. They give him weapons, salary, pocket money." Once ISIS controls an area, it establishes a semblance of order and shows zero tolerance for any rivalry or public display of weapons. It immediately disarms the local communities, primarily of heavy weapons. For Syrians who lived under the control of FSA militias, the change was welcome. "You can drive from Aleppo to Raqqa to Deir Ezzor and into Iraq, and nobody will bother you," a resident of Deir Ezzor said. "Before, you'd have to be stopped at ad hoc checkpoints and you [would] have to bribe this and tolerate that"²⁷

In another part we read:

"The situation changed 180 degrees when ISIS came. People seemed pleasantly surprised at first, sometimes to the extent that they would overplay their sense of relief "We never felt this safe for twenty years," said one old resident of Deir Ezzor. "We no longer hear shooting. We no longer hear so-and-so killed so-and-so. We can travel with no problems." Later, the same people expressed satisfaction with the current situation but were less keen to praise ISIS's rule. One of the most cited praises for ISIS in its territories is that it gets the job done. Unlike the FSA and Islamist groups, ISIS will send a patrol to fetch someone if another person files a complaint about him. Even if the complaint in question dates back to the years before the uprising, said one resident who was involved in such a case, ISIS will settle the situation if the person has the appropriate documents. Rifaat al-Hassan, from Albu Kamal, told the story of an uncle who lost hundreds of thousands of Syrian pounds years before the uprising, in a fraud scheme by a local businessman. When ISIS controlled the city of Albu Kamal, the fraudulent man was arrested and forced by ISIS to return all money taken unlawfully. More important, laws apply to ISIS members

and commanders too; ISIS has executed scores of members and commanders for unlawfully profiteering or abusing power.”²⁸

Authors of a report named “The Group That Calls Itself a State: Understanding the Evolution and Challenges of the Islamic State” and published by The Combating Terrorism Center At West Point (CTC) may seem to be arguing in unison that the public support for the Islamic State and her success is the outcome of “design and accident” or “Skills (virtu)” and “luck (fortuna)” when the Islamic State capitalized on the Sunni disenfranchisement to establish a state which her founding father Abu Mus’ab Al-Zarqawi had envisioned. Without doubt every success story has had a design but it is not possible to accidentally organize the most effective army in Syria and Iraq and endure foreign intervention and airstrikes for two years (up until writing this paper), curb crime, establish courts of justice, run schools, hospitals, supply electricity, telecommunication, water, food, oil and other services. I don’t mean to argue that the Islamic State has established a utopian state but I insist to point out that the Islamic State has been well received in comparison to other armed factions and the governments in Iraq and Syria. To evaluate the performance, it is of imperative importance to signify the benchmark of evaluation. Without doubt like any state and government the Islamic State also has her own opponents and proponents.

In Syria,

“ISIS established itself as a viable law enforcer and won credit from two important societal segments: those who were disillusioned with the Syrian revolution and started to reminisce about safety and security under the regime, and those who were alienated by the FSA and Islamist factions. For those categories, among others, ISIS served an acceptable temporary role. “The regime made mistakes and repeated them,” said Ghassan al-Juma, from Hasaka. “The FSA, too, made mistakes, and nobody could stop them. But when ISIS makes mistakes, it does not repeat them. You go and complain. If nobody responds to your complaint, you go to the perpetrator’s leader, and you always get what you want if you are right”²⁹ and in Iraq ““People were terrified

of ISIS because its reputation preceded it," said al-Rawi from Qiim. ".At first, people avoided them, but once they started meeting people in mosques and engaging them, people became too comfortable with them. They liked their dedication and slowly started working with them even if they were still not with them. [ISIS] interfered when they had to. Local people were more present"³⁰

In this vein I agree with CTC's conclusion that:

"key to the long-term trajectory of the IS is its ability to provide satisfactory levels of governance to people living under its control. In the short-term, the IS has had some success at providing social services to locals that the Syrian and Iraqi governments failed to provide. This success has resulted in some boost to its overall appeal. In addition, the more successfully it does so in terms of the provision of public services, the more likely it is to gain supporters, despite what is viewed from the outside as a brutal method of governance. For this reason, it is not particularly surprising to find reports of families and individuals immigrating to territory held by the IS to live, not necessarily to fight"³¹

I presume It is for this reason that the coalition forces have been indiscriminately bombing the infrastructure such as bridges, hospitals, schools, telecommunication towers, oil supplies, livestock and brazenly targeting civilians in the markets, housing compounds, universities and the mosques esp. recently in Fridays when Muslims go to mosque to pray in congregation. Therefor CTC recommends the continuation of the airstrikes by arguing that:

"Since the beginning of U.S. and coalition airstrikes, there have been reports of increasing food prices in al-Raqqa, Syria, the main city that has been mostly under control of the IS since January 2014. From individuals inside Mosul, we hear of troubles maintaining the provision of electricity on a consistent basis. In addition, there have been numerous reports of interviews with people living in territory under the control of the IS that emphasize the failures of the IS in terms of governance. Highlighting such failures (of which there appears to be plenty of evidence) as opposed to its brutality may be a better way to damage its image in the eyes of sympathizers and potential recruits"³²

It is an open secret that the air strikes and drone assassinations around the globe have never helped alleviate what is sold out as “terror problem”. Number of civilians killed has been outrageously greater than the number of possible targets. “According to retired Colonel Lawrence Wilkerson, a Vietnam veteran who served as chief of staff for Secretary of State Colin Powell and is now a visiting professor of government and public policy at the College of William and Mary, America's drone wars are a call to arms for its enemies. ‘The way we operate now, it is difficult not to conclude that drones feed terrorist recruitment,’ he says. ‘There is a cowardly empire killing them from the skies and the only way for them to fight back is asymmetrical. The things they do seem like heinous acts of terrorism to us, but in fact that is the only option we've left them with’”³³. Maybe “murder” is the most proper word to use for these airstrikes when the whistleblowers behind its operation “regard the drone program as a wasteful abuse of power, promoted on lies, and, in practice, a cause for more enemy combatants than it could ever kill”³⁴. On the 3rd of May 2016 the UN Security Council unanimously adopted a resolution “to remind warring parties everywhere of the rules, demanding protection for those who provide health care and accountability for violators. The measure urged member states to conduct independent investigations and prosecute those found responsible for violations ‘in accordance with domestic and international law.’”³⁵ Dr. Joanne Liu, the president of Médecins Sans Frontières (MSF)^{xv} delivered a very sentimental speech during the session:

“Last Wednesday, airstrikes obliterated Al Quds Hospital in Aleppo. They blew apart at least 50 men, women and children. It killed one of the last remaining paediatricians in the city. A murderous airstrike. There were almost 300 airstrikes in Aleppo over the last 10 days. Civilians, often in crowds, were repeatedly struck... I went to Kunduz, Afghanistan following the U.S. attack on our trauma centre on 3 October 2015. One of the survivors, an MSF nurse whose left

^{xv} Doctors Without Borders

arm was blown off during the relentless airstrike, told me something that haunts me daily. He said that when fighting erupted in Kunduz, MSF told its staff that its trauma centre was a safe place. ‘We believed you,’ he said. ‘Did you know that we would be bombed?’... Broad attacks on communities and precise attacks on health facilities are described as mistakes, are denied outright, or are simply met with silence. In reality, they amount to massive, indiscriminate and disproportionate civilian targeting in urban settings, and, in the worst cases, to acts of terror. The effects of the attacks against health facilities emanate far beyond those immediately killed and injured. They demolish routine and lifesaving healthcare for all. They make life impossible... We physicians take an oath when we join the medical profession. We treat every individual, regardless of who they are, regardless of their religion, their race, or on which side they may fight. Even if they are wounded combatants, or if they are labelled as criminals or terrorists... The neutrality of war-time medical care cannot be stamped out by state sovereignty or domestic law. Especially in an age of counter-terrorism and counter insurgency – characterized by shifting alliances and murky rules of engagement... You are charged with protecting peace and security. Yet four of the five permanent members of this council have, to varying degrees, been associated with coalitions responsible for attacks on health structures over the last year. I repeat: Stop these attacks”³⁶

Rubbing salt into the wound is the sectarian war in Iraq and Syria that further undercuts the legitimacy of the incumbent governments and testifies to their inability to shore up their respective states’ internal sovereignty. In Syria the Alawite sect which is said to be a splinter from mainstream Shia has been politically close to Shias of Iran and Lebanon. Ironically enough neither Shia scholars nor Sunni scholars approve them as Muslims. Although Alawites may have religious practices that includes Islamic elements but the primary premise of Alawism is irreconcilable with the Islamic ontology and principles. What we can observe today is the longtime coalition of Alawites, Shiites of Hezbollah from Lebanon and Iran. Entrance of Hezbollah and Iran into the Syrian civil war on the side of the Al-Assad regime is not the only reason the civil war turned sectarian. Another reason is Iran’s scheme of mobilizing Iraqi Shia

militants from Asaib Ahl Al-Haq and Kata'ib Hezbollah³⁷, dispatching Iranian Revolution Guards Corps (IRGC), Iranian paramilitary forces (linked to IRGC) and Afghan recruits to join the war under the banner of "Modafe'ine Haram" (guardians of the holy sites). Significant number of Iranian forces killed in Syria prove that they were nowhere close to any "holy site" but the front lines. Nevertheless, they are treated as Shia "martyrs" in Iran. In fact, the political discourse in Iran leaves no room for any observer to understand that for Iran the nature of civil war in Syria is essentially a sectarian one and not only confined to Syria, but also beyond to include Iraq and where ever Iranian proxies have footholds. The most important reason that points out the sectarian nature of the Syrian civil war are first massacring Sunni civilians including women and children by Alawite gunmen in Al-Houla in May 2012, a month later in Al-Qubair, in May of 2013 in Al-Bayda and Baniyas. Second is the indiscriminate use of barrel bombs and chemical weapons against the civilians for whose life the Al-Assad regime has no regard or concern. Not to mention, the killings by Russian forces at the behest of the regime and the verbal abuse by regime forces in the torture videos that have been leaked out tells enough about the motivations. Most of these massacres and mobilizations have taken place before the official establishment of Khilafah or the Islamic State in June 2014.

When it comes to Iraq, according to some authors the "genocidal" godfather of the Islamic State, Abu Mus'ab Al-Zarqawi, is one of the instigators of the sectarian war. Haasan and Weiss argue that:

"Al-Zarqawi made no secret of his pathological hatred of Iraq's demographic majority. A letter said to have been written by him and addressed to bin Laden was intercepted by the Kurds in January 2004. It made Al-Zarqawi's Machiavellian plot quite clear: The Shia, it read, were 'the insurmountable obstacle, the lurking snake, the crafty and malicious scorpion, the spying enemy, and the penetrating venom' It went on to state, 'The unhurried observer and inquiring onlooker will realize that Shi'ism is the looming danger and the true challenge,' its practitioners grave-worshippers, idolaters, and polytheists"³⁸

This is true that the Salafi strand does not consider Shias to be Muslim but Al-Zarqawi is not the only Salafi. Al-Dhawahiri is maybe his atypical who has a totally different opinion about Shias. Furthermore, I don't see Al-Zarqawi's opinion as a cause for staging a sectarian war and laying such a claim on a fraction from the letter that is part of a whole, unless further evidence is found to back the claim. Moreover, according to the Islamic State's own propaganda we can substantiate that this does not justify such an initiative. This type of argument is propounded by authors who are looking for the causal factors to militancy in religion^{xvi}. There are two important points they are missing. First, the retaliatory nature of the Islamic State's attacks. Second, the demography. If the government offices and ministries, army or any governmental institution that is staffed by Shias and moreover if this body is located in Shia populated areas, then the attacks are not necessarily meant to target Shias. Nevertheless, a retrospective sight might very well explain the reasons for Al-Zarqawi's "pathological hatred".

Colonel Joel Rayburn, "a U.S. military intelligence officer who served in Iraq and has written a history of the country" argues that "at first no one fought the Americans; not the Baath, not the army officers, and not the tribes. But when the Americans formed the Governing Council [in July 2003] with thirteen Shiite and only a few Sunnis, people began to say, 'The Americans mean to give the country to the Shia,' and then they began to fight, and the tribes began to let al-Qaeda in"³⁹ and as a response from Jihadists, Hassan and Weiss add:

"Though al-Zarqawi had also exploited what was then an incipient but real problem in Iraq's political evolution: namely, the creeping takeover of state institutions by chauvinistic Shia politicians, many of whom were either spies or agents of influence of Iran's Islamic Revolutionary Guards Corps (IRGC). One of al-Zarqawi's named nemeses was the Badr Corps, the armed wing

^{xvi} For further insight, refer to chapter 1.

of the SCIRI^{xvii}, a political party whose very name indicated its Khomeinist foundations. By isolating Badr, which was targeting and abusing the Sunnis, al-Zarqawi managed to translate real sociopolitical grievances into an eschatological showdown. “[T]he Badr Brigade . . . has shed its Shi’a garb and put on the garb of the police and army in its place,” he wrote. “They have placed cadres in these institutions, and, in the name of preserving the homeland and the citizen, have begun to settle their scores with the Sunnis.”⁴⁰

I do not agree with Hassan and Weiss that Al-Zarqawi exploited or “managed to translate real sociopolitical grievances into an eschatological showdown”. This is because the rest of the letter they didn’t publish doesn’t necessarily imply that:

“We here wage a war at two levels. The first war is open and exposed with an aggressive enemy and clear kufr. The second war is a difficult and fierce one with a scheming enemy who dresses like a friend, shows approval, and calls to unity, while he conceals evil and plots day and night. . . . Our condition dictates that we deal with the matter with courage and clarity and endeavor for a solution . . . The solution as we believe, and Allah knows best, is to expose the Rāfidah and raise the resolve of Ahlus-Sunnah to fight them and stop them. This is for several reasons: A) The Rāfidah have declared a hidden war against the Muslims. They are the close and dangerous enemy to Ahlus-Sunnah. Even though the Americans are also a major enemy, but the Rāfidah are more severely dangerous and more murderous towards the Ummah than the Americans. . . . B) They took the Americans as allies, supported them, stood in their ranks in the face of the mujāhidīn, and sacrificed and continue to sacrifice for the Americans everything precious so as to end jihād and the mujāhidīn.”⁴¹

To my reading, the letter in general describes the justifiability of responding in kind or retaliating. A response that was inevitable, irrespective of belief system or mentality. The historical tensions and the state of affairs after the U.S. invasion of Iraq just came hand in hand to make Al-Zarqawi conclude that “The precise observer and wise scrutinizer realizes that

^{xvii} Islamic Supreme Council of Iraq

Shiism is the immediate danger and real challenge. The message of history is confirmed by the testimony of current events”⁴².

The fact is that a sectarian war involves at least two sides. For its initiation there has to be both sides’ will and practice. If there are any arguments that the Islamic State and her predecessor organizations were the cause for the eruption of the sectarian conflict in Iraq, the Iraqi government is no less to be blamed in this regard for taking sides in a potential would-be sectarian war, using it as an excuse in election campaigns, considering the opposition to its rule as part of a sectarian plot to justify the bloody crack downs and giving a *carte blanche* to paramilitary forces to run execution squads to massacre Sunnis and make them refugees in their own country. Even if for the sake of argument there were any organizations chasing after a sectarian war, it doesn’t justify that the government should play into their hands and fill the ministerial positions with the likes of Baqir Jabr al-Zubeidi, who once said “For us, the Sunnis are of three kinds: those who ought to be killed, those who ought to be imprisoned, and those who ought to be our servants”⁴³. Actually, this is very expectable when the state’s prime minister himself was a fond of entertaining such provocative exclamations arguing in a press conference that “the conflict today is a continuation of the conflict between the partisans of Hussain and the partisans of Yazid,”⁴⁴ and suggesting to turn the direction of Qiblah^{xviii} towards Karbala or. Even if one argues (as some authors do), that the Islamic State’s predecessor organizations created a sectarian war to capitalize on Sunnis’ disenfranchisement, then this simply requires appreciation of the Islamic State for her intelligence in actualizing her plans in contrast to censuring the Iraqi government for her incapability to fill the voids or rather for being outmaneuvered while enjoying the support of Iran, U.S. and coalition forces. If the plan was to stage a sectarian war and cook the exploitative opportunity then why the spokesperson of the Islamic State, Shaykh Muhammad Al-Adnani in a speech said that:

^{xviii} This is the direction towards Ka’bah in Mecca, to which Muslims turn when they pray

“Finally, this is a message to the fool of the Rāfidah Nouri. What have you done with your people, little fool? No one is more foolish than you except he who is pleased with you as a president and leader. You will always remain the seller of underclothing. You have nothing to do with politics and military leadership. You wasted a historical chance for your people to control Iraq. The Rāfidah will continue to curse you as long as some of them exist. Truly, between us is a settling of debts. You spoke the truth although you are a liar. There will be a heavy and long account. However, the settling of debts will not be in Samarra and Baghdad, rather in Karbala al munajjasah (the defiled) and Najaf al-ashrak (the most polytheistic).”⁴⁵

In conclusion I contend that apart from the Islamic State’s own scholastic reasons to renounce the legitimacy of the Iraqi and Syrian states and their governments, in practice the Syrian and Iraqi governments neither have the legitimacy nor the capability to govern Iraq and Syria. Facts prove that neither do they have established a semblance of internal sovereignty nor they have established external sovereignty of their states. The Islamic State has survived and expanded to her current level thanks first and foremost to Iraqis and Syrians who have joined together to determine their own fate. The chaotic situation in Iraq and Syria has been dragging on because the foreign states are persisting to shore up the very governments that people have rose to topple. In case there won’t be any intervention to tilt the balance of power, the Islamic State can prevail over all her rivals including the Al-Nusra front in a bid to take the helm of a state that encompasses Iraq and Syria. Based upon all the arguments mentioned so far in respect to sovereignty and the process through which the Islamic State expands, the Islamic State is a domestic problem for all those states that are grappling with her in their own territory. What makes it an international problem is the intervention in any shape or form to change the tides in favor of the incumbent governments and by doing so the intervening states expose themselves as a legitimate target for the Islamic State.

Any argument concerning the threat of the Islamic State and nipping her in the bud before she is recognized by the international society of states is basically derived from the subjectivity

of security's interpretation and lack of intention to cede one's sphere of influence to rivals in the competition for conquest. As an example, Bryan Price argues that:

“Although there are some commentators who are calling for a repeat of the containment strategy promoted by Kennan in the Cold War there are some important differences to consider before implementing such a strategy. At the dawn of the Cold War, the US was willing to concede the territory the Soviet Union controlled at the time, and American foreign policy focused on fighting the USSR wherever it attempted to expand. Today, in the fight against the IS and jihadism, the United States cannot afford to concede territory like it did in the Cold War and allow the IS and other capable anti-American jihadists unfettered rule. The United States learned some painful lessons from the fateful attacks of 9/11, including the risks at stake when it allows safe haven to jihadist groups who wish to do Americans harm. If the United States is going to pursue a containment strategy against the IS, it must apply consistent pressure using both kinetic and non-kinetic means in order to prevent the organization from having the time and maneuver space to plot and execute attacks against the United States and its allies. Adhering to a pure Kennan-esque Cold War containment^{xix} strategy and allowing the IS to consolidate in the territory it now controls is too dangerous and risks creating a permissive environment like the one that AQ was allowed to exploit in Afghanistan prior to 9/11.”⁴⁶

If we review the 2nd chapter of this paper, we'll recall that the reason U.S. is a legitimate target for Mujahideen is mainly because of U.S. intervention in domestic affairs of Muslim nations and her support for Israel in massacring the Palestinians and keeping Palestine under occupation. This is very well expressed by Shaykh Usama Bin Laden, “America will never dream of security until we actually experience it in Palestine, and that it is not fair that you enjoy life while our brothers in Gaza are living the most miserable of lives”⁴⁷. As famously and repeatedly quoted “America and Americans will not dream of security nor gain it except when we experience it in Palestine”. The Shaykh in another piece pledges that “I also reassure our

^{xix} “a long-term, patient but firm and vigilant”

people in Palestine in particular that we will expand our jihad – Allah permitting – and will neither recognize the borders of Sykes-Picot nor the rulers whom colonialism put in place.”⁴⁸

In a different account he says that “As you kill, you will be killed until you leave our lands and stop supporting Israel”⁴⁹ In the same manner the current leader of Al-Qaeda Ayman Al-Dhawahiry argues that:

“My Muslim brothers who are keen to liberate Jerusalem! The liberation of Jerusalem and Al-Aqsa mosque requires, and Allah knows best, two things. Firstly: Striking the West. Striking the West, particularly America in their own backyard. And attacking their interests that are scattered everywhere. Supporters of Israel should pay with their blood and their economy the price for their support for Israel's crimes against Islam and Muslims... Secondly: Establishing a Muslim state in Egypt and the Levant for the mobilization of the Ummah to liberate Palestine.”⁵⁰

In another message by Aiman Al-Dhawâhiri in “letter to American people” he argues that^{xx}:

- “- The fourth thing that we ask of you is that you end your support of Israel, India, Russia, and the Philippine in their wars against the Muslims.
- The fifth thing that we ask of you is that you pack your bags and leave our countries. We wish you well and hope for your guidance, so don't force us to ship you home in boxes.
- The sixth thing that we ask of you is that you end your support of the corrupt and corruptive rulers of our countries and end your interference in our national policies and the curricula of our educational institutions. Either leave us alone, or expect us in New York and Washington.
- The seventh thing that we ask of you is that you interact with us on the basis of mutual benefit instead of the current policy of compulsion, plunder, and occupation”⁵¹

^{xx} These might explain why the former foe is today considered “moderate” in comparison to the Islamic State

In the Islamic State's own propaganda we can also read messages^{xxi} such as “a truce with the Islamic State involving the halt of all attacks against the Muslims”⁵² or “Don't get involved in the Islamic State's internal and external affairs. Leave them to fight their own war”⁵³ or “Any truce between the West and the Islamic State would ultimately have to address the end of support for Arab and non-Arab tyrannical puppets in the Muslim world as well as an end of support for Israel.”⁵⁴

As a result, what Bryan Price is missing is that, U.S. is targeted for the foreign policy course she has adopted. U.S. and her allies cannot have peace by violating others' peace. If U.S. and her allies reserves for themselves the right to travel from one part of the planet to another part of the planet to affect local issues to their own liking, then of course the Islamic State reserves for herself the same right. As Michael Scheuer argues: “We are far past facing terrorists. Rather, we are in the midst of fighting an international insurgency, and we are on the way to a world war that the United States will have to fight at home and abroad if the foreign-policy status quo is retained.”⁵⁵ The same opinion is more or less expressed by Michael Morell^{xxii} in an article at Time magazine. There he said that “The nature and significance of the threat flows from the fact that ISIS is— all at the same time— a terrorist group, a state, and a revolutionary political movement”⁵⁶. I agree with Michael Scheuer that “The only effective U.S.- NATO defense against the Islamists is to stop all intervention, and let the Sunnis, Shias, and Israelis settle their differences in whatever merrily murderous manner pleases them.”⁵⁷

^{xxi} The messages are either by the editors of the magazine, or attributed to different authors or captives. The reason I am using them as an evidence to make my claim is that the magazine is the mouthpiece of the Islamic State and there are plenty of articles that in one way or another are referring to the same subject. In case one argues that the Islamic State has been benevolent to allow the captives such as John Cantlie to communicate his message by his own free will, then the editors' pushing forward the same messages in different accounts is enough to prove that the magazine also holds the same opinions.

^{xxii} Michael Joseph Morell was the deputy director and twice an acting director of the Central Intelligence Agency (CIA). Also Michael Scheuer was a former CIA intelligence officer.

3.4. The Islamic State and *Pacta sunt servanda*, application of force, mutual recognition of territorial integrity

According to the paradigm adopted by the Islamic State, there are two conflicting camps. The camp of Muslims versus the camp of non-Muslims or Kuffar. The Islamic state on the one hand does not accept any co-operation or peace with non-Muslim states or the states of Kufr and on the other hand with the governments in the Muslim majority states.

For the Islamic State, the statehood in the Muslim states has divided Ummah and the governments who do not rule by Sharia law are illegitimate in light of the fact that the population is Muslim. The Islamic State neither recognizes these established governments and states nor plans to consider them on equal footing with herself. For the Islamic State, they are the agents of the Kuffar, occupier of Muslim lands and an existential threat to Ummah. Moreover, the Islamic State finds it her imperative responsibility to save the Ummah from Kuffar and “apostate governments” or Tawaghit, and therefore the Islamic state rules out the idea of “not getting involved in any disputes with neighboring countries”. Simply because the neighboring countries have interfered with the affairs of Ummah that concerns the Islamic State and have brought about Ummah’s enslavement and agony. An example of this view is manifested in the Islamic State’s diatribe against the leadership of Taliban. The diatribe against the Taliban has been widely covered in the primary sources, part of which argues that:

“...while taking advantage of Mullā ‘Umar’s death, Akhtar released statements – both in the name of Mullā ‘Umar and the ‘emirate’ – in support of national reconciliation with the apostate Afghan puppet regime, normalization of relations with the apostates of the Pakistani regime and army, glorification of various Arab and non-Arab tawāghīt including the American slaves Hamad Al Thani and Tamim Al Thani of Qatar, and declaring the most evil enemy of Islam – the Safawī regime of Iran – a Muslim state! He released statements upholding the principles of the United Nations, international conventions, nationalism, ‘modernism,’ and pacifism, as well as statements disavowing both offensive and defensive jihād except for a nationalist Afghani war against the

American occupational forces. He released statements supporting the legality and authority of the democratic tāghūt elections in Egypt and their electoral results.”⁵⁸

In general, statehood and governing in any Muslim majority state is null and void as soon as an Islamic State or Khilafah/Caliphate has been established. This is due to Islamic teachings that makes the establishment of Khilafah a “Fard Kifayah”^{xxiii} responsibility and obedience to it a “Fard Ayn”^{xxiv} responsibility upon all Muslims. As explained by the Islamic States in reference to Taliban:

“...and if we suppose Mullā ‘Umar is still alive and that the late deviant statements are not his, then it is obligatory upon him and those with him to obey the Khalīfah and accept his imāmah and submit to him, in accordance with the command of Allah and His Messenger to unify the word and ranks and to gather upon the methodology of the Prophet, his Sahābah, and the Salaf of this Ummah in matters of īmān and Sunnah and rulings of imāmah and khilāfah.”⁵⁹

However, truce with Kuffar is considered to be possible. In the Islamic State’s magazines, we read that “The Islamic State holds the ‘international system’ to be a tāghūt, something evil enforcing manmade laws upon people. It will never “learn” to “work” with it. But a truce with Western nations is always an option in Sharī’ah law”⁶⁰ or “if Western nations want a truce, they really should think thrice before throwing away the chance”⁶¹. The editors’ own comment on the question of truce is more informative:

“A halt of war between the Muslims and the kuffār can never be permanent, as war against the kuffār is the default obligation upon the Muslims only to be temporarily halted by truce for a greater shar’ī interest, as in the offer of truce from the Prophet (sallallāhu ‘alayhi wa sallam) to the mushrikīn^{xxv} of Makkah in Hdaybiyah. The term of the Hdaybiyah treaty was ten years. Once a truce is reached, if it is broken by the kuffār, they will be punished by both the shar’

^{xxiii} It is a responsibility that if undertaken by some Muslims, other Muslims are abdicated from.

^{xxiv} A compulsory responsibility on every single Muslim.

More info at: http://www.religioscope.com/info/doc/jihad/azzam_defence_5_chap3.htm

^{xxv} In reference to idol worshippers of Makkah. “Mushrik” in Islamic terms refers to polytheism or someone who worships anything besides or instead of Allah.

(jihād) and qadar of Allah. The betrayal of the mushrikīn of Makkah towards the Hudaibiyah treaty signed by the Prophet (sallallāhu ‘alayhi wa sallam) led directly to the Muslims assembling to successfully conquer Makkah (as described in the Sīrah), just as the betrayal of the crusader Romans towards the future treaty with the Muslims will lead directly to the Muslims assembling to successfully conquer Rome (as described in the Sunnah).”⁶²

“War against the kuffār is the default obligation upon the Muslims” can be explained if we take into consideration the Islamic States paradigm. As the assumptions of paradigm show, the Ummah is always under constant threat from Kuffar. The Islamic State argues that:

“Shaykhul-Islām Ibn Taymiyyah said: ‘If the enemy plans to attack the Muslims, then repelling him becomes obligatory upon all those intended for by the attack and upon those not intended for by the attack, so that they support them, just as Allah said, {And if they seek help of you for the religion, then you must help}⁶³ and just as the Prophet ordered to support the Muslims’. The scholars mentioned numerous cases that make jihād against the kuffār fard ‘ayn, including the invasion of the Muslims’ lands, the imprisonment of Muslims, the imminent threat of attack against the Muslims, and the faceoff of the opposing armies.”⁶⁴

Also a verse from Quran is recited to recall the necessity of fighting the non-Muslims:

“{And fight them until there is no fitnah^{xxvi} and [until] the religion, all of it, is for Allah. And if they cease - then indeed, Allah is seeing of what they do.}⁶⁵ Everyone who opposes this goal or stands in the path of this goal is an enemy to us and a target for our swords, whatever his name may be and whatever his lineage may be”⁶⁶

Based on what’s being said so far we may conclude that for the Islamic State:

- 1- Ummah is divided by the Western-design colonial scheme of national borders and therefore “state” is an illegitimate political entity unless the state represents the Ummah not a nation in terms of language or culture or race. In this regard, in one of the videos of the Islamic State Mujahideen tear their passports and identity cards in defiance of

^{xxvi} oppression, affliction

artificial borders dividing the Muslims. As of one them exclaims: “These are your passports, oh Tawagheet in every place. For I swear by Allah that we are Muslims. We are Muslims. We are Muslims”⁶⁷ and then they collectively tear down their passports. Another Mujaheed in the same manner exclaims that “Oh you tyrants! This is your citizenship. I am a Muslim and I do not recognize it.”

- 2- The governments ruling over these illegitimate nation-states are also illegitimate.
 - 3- The international agreements that these illegitimate governments have signed is basically null and void since they do not represent Ummah’s will and this is apart from the requirement that any agreement should conform to the provisions of the Sharia Law.
- In conclusion, there cannot be any *Pacta sunt servanda* until a legitimate agreement is signed by a legitimate government of a legitimate state. Which in this case is an agreement in conformity with the Sharia Law, signed by the Caliphate of the Islamic State which represents Ummah.

As for the restriction on resorting to the application of force, the spokesman for the Islamic State, Shaykh Abū Muhammad al-Adnānī argues that “The Islamic State came to know that truth and rights are not returned except by strength. So it chose the boxes of ammunition, not the boxes of suggestions. As for lifting of oppression and change, it won’t happen except by the sword. So it was determined to negotiate in the trenches, not in the hotels. So it abandoned the lights of conferences and it laid the fires of raids. So the State rose with honor and it is here to stay.”⁶⁸ Even though the application of force is considered a legitimate and justifiable means for the Islamic State^{xxvii} to neutralize the threat from the Kuffar camp against the Ummah and undo historical injustices, but as we can observe from the situation on the ground, the Islamic State is yet to start a war with any non-Muslim state and based upon statements in claiming

^{xxvii} The reason to resort to application of force is presented in the 2nd chapter’s section “2.4. Militant/Jihadi Salafi, Jihad or Defense Mechanism”

responsibility for the attacks and the videos released by the Islamic State, all the attacks on non-Muslim states' soil have been in retaliation for their military intervention in the Middle East to eliminate the Islamic State in the process of which many civilians have lost their lives. Scenes from death of civilians have always been part of the videos that have been published in the wake of the attacks of non-Muslim States. *Pacta sunt servanda*, application of force, mutual recognition of territorial integrity, these are all attributes of a state with *de jure* recognition and legal personality. Nevertheless, according to the International law the Islamic State doesn't have any such personality. I presume it is too early if not mistaken, to argue that the Islamic State does not conform to these norms. We may simply conclude that the Islamic State has rhetorically ruled out that she would conform to these norms while she is at war. Even warring states with legal personality may not conform to these norms. We may have better opinion about Islamic State's conformity to these norms when a truce in conformity with Sharia Law is concluded, in other words, a truce that is not imposed on her.

James Kurth in his article "Global Threats and American Strategies: From Communism in 1955 to Islamism in 2005"⁶⁹ explains similarities between the communist threat and the Islamic threat. Even though his threat perception is highly subjective and open to question but the analogy on its own is a reminder of Islamic State's paradigm in which we have Ummah's block versus the Kuffar's (non-Muslims) block. The main commonalities he identifies between the two threats are:

- a) Armed insurgency to subvert governments,
- b) Laying networks to spread their ideology,
- c) Nuclear weapons (in case the Islamists acquire one).

While the first point seems to be purely a domestic issue for any state, the second point is as democratic in nature as practiced by embassies, consulates and international non-governmental organization. But about the third point I'd rather rephrase it and call it a nuclear

deterrence that could impose the fait accompli of “one sided position of hands off their back yard”⁷⁰ which was mentioned by General C. P. Cabell, Deputy Director of Central Intelligence, in a speech to the National Security Commission-Committee Meetings of the American Legion, in August 21st 1959 in Minnesota in respect to communist threat. Moreover, what he had also mentioned among other things, was the communist block’s aspiration for “world domination” and to abolish the “free world”.

The argument of “hands off my back yard” is a taken for granted prerogative of every emerging power that may as well be taken into consideration in the systemic analysis of international politics. In today’s political development, states such as the U.S., Russia and Iran are the best examples in this respect. Basically, irrespective of the name, a unit depending on its capabilities may or may not consider for herself any such right and in case it does, it will become a challenge or a threat as many would like to name it. As evidence suggests, the Islamic State reserves the same right for herself and with regards to her territorial expansion in reality, this can be a significant redistribution of capabilities in general and in particular in respect to human resources and natural resources that could render imposition of a different political reality than the one currently in place in the Middle East. M. Scheuer argues that “Currently, IS leaders appear to have three strong regional beachheads (mentions the Balkans, Libya, Afghanistan) from which they intend to expand, as well as one strategic economic target: four maritime choke-points that, if closed or even sporadically attacked, would disrupt the world’s supply of oil and hence its economy”⁷¹

In denunciation of all the resources studied about the Islamic State for this research, all of which only have adopted irreconcilable one-sided views, I’d rather to see the other side of the story as well. Without doubt, it goes without arguing that for any state such as the Islamic State that faces an existential threat from the other units of the system, a deterrent such as nuclear weapons are an undeniable defensive tool. In fact this is the Islamic States’ right to

acquire nuclear or any other weapons of mass destruction (WMD) to secure her existence^{xxviii} and sovereignty like the rest of the units that have so far done so^{xxix} apparently for the same reasons. Whether these weapons are used for defensive or offensive purposes is not exclusively a concern about the Islamic State but it is also a concern about all the other states with such capabilities. Indeed, there's no guarantee that nuclear-armed states will refrain from resorting to use of WMD against the Islamic State. All those states that consider the Islamic State as a threat are themselves considered a threat by the Islamic State as explained earlier.

However, as Kenneth Waltz argues, the international political structures are shaped by predominant states as the terms in the market are defined by predominant firms. In other words, the Islamic State as a new entrant to the political reality is considered a threat just because she wants to shape the structures in her own/favorable^{xxx} terms at the expense of current oligopolies. The Islamic State does not consider the current order or equilibrium (which is known as peace) to be just. But the fact is that the Islamic State is not the only disgruntled one or the black sheep of the society. As Hedley Bull explains:

“Yet international order is preserved by means which systematically affront the most basic and widely agreed principles of international justice. I do not mean simply that at the present time there are states and nations which are denied their moral rights or fail to fulfil their moral responsibilities, or that there is gross inequality or unfairness in their enjoyment of these rights, or exercise of responsibilities. This is of course the case, but it has always been the case, and it is the normal condition of any society. What I have in mind is rather that the institutions and mechanisms which sustain international order, even when they are working properly, indeed

^{xxviii} On 16th April 2016 the Islamic State's Amaq News Agency reported that Syrian regime helicopters dropped barrel bombs filled with toxic gases on the positions of the Islamic State fighters at Mt. Dakwah, east of Damascus. <http://wp.me/p7izMa-wE> According to Haaretz, the toxic gas was Sarin: <http://www.haaretz.com/middle-east-news/1.717294>

^{xxix} North Korea has withdrawn from non-proliferation treaty (NPT), India, Pakistan and Israel never signed the treaty apparently due to security reasons.

^{xxx} In her own terms only if her rhetoric is taken at face value.

especially when they are working properly, or fulfilling their functions necessarily violate ordinary notions of justice.”⁷²

While for H. Bull himself order is more important and should precede justice, he categorizes the doctrines in their preferences of giving priority to order and justices. In relevance to the case in this paper, one category is the revolutionary one, the other is “the liberal or progressivist view that has always represented one important strand in thought about foreign policy in the West”⁷³. The former one is representative of the Islamic State’s view which may argue that (not necessarily literally) “Let justice be done, 'though the earth perish”, while the latter is representative of the rest of the units in the international society of states which:

“is reluctant to accept that there is any necessary conflict between order and justice in world politics, and is constantly seeking after ways of reconciling the one with the other. It is inclined, for example, to see the righting of injustices as the true means to the strengthening of international order... It is inclined to shy away from the recognition that justice in some cases cannot be brought about through processes of consent or consensus, to argue that attempts to achieve justice by disrupting order are counter-productive, to cajole the advocates of 'order' and of 'justice' in to remaining within the bounds of a moral system that provides for both and permits an adjustment that can be mutually agreed”⁷⁴

The irreconcilable positions of the revolutionary view and the liberal/progressivist view has an unmistakable embodiment in the modern Jihadi discourse in respect to Palestine’s occupation, Iraq’s occupation, Intervention in Mali and Libya and etc. No doubt there won’t be any consensus about bringing into justice, by trial in the courts of the authority which has the jurisdiction over the territories where Hellfire missiles were fired at civilians or bullets were sprayed randomly on civilians to record the scene on mobile phone for fun or those who have committed acts of rape and sodomy and etc., the acts all of which were committed by people who were a foreigner soldier in Afghanistan, Iraq, Yemen, Palestine, Syria and etc. These are the issues that are repeatedly denounced by the Islamic State and are the *raison d’être* for the

Islamic State's emergence. As H. Bull argues, "The conflict between international order and demands for just change arises in those cases where there is no consensus as to what justice involves, and when to press the claims of justice is to re-open questions which the compact of coexistence requires to be treated as closed." In the light of the Islamic State's *raison d'être* as explained earlier, one should not miss the point that within the international society of states bargaining for the justice that is being sought by the Islamic State is only realizable once her jurisdiction is recognized in *de jure* fashion which comes with a *de jure* recognition of her statehood. This is in the face of the fact that statehood is independent of *de facto* or *de jure* recognition i.e. anyone's approval or disapproval, cannot change the reality of existence. Here once again we observe that "international law" is neither truly a law nor "international" but an inter-state agreement, a framework or code of conduct which as the Islamic State and Al-Qaeda would argue, has never profited Ummah. I agree with H. Bull that "It can scarcely be doubted that an international society that has reached a consensus not merely about order, but about a wider range of notions of international, human and perhaps world justice, is likely to be in a stronger position to maintain the framework of minimum order or coexistence than one that has not"

As a result, nuclear weapons in the hands of the Islamic State is as much of a threat to the international society of states as all the warring states are a threat to the Islamic State. To distinguish who is "the threat" may very much depend on one's own siding with one of the conflicting parties. In H. Bull's words "The advocate of revolutionary justice looks forward to the time when a new order will consolidate the gains of the revolution. The proponent of order takes up his position partly because the existing order is, from his point of view, morally satisfactory, or not so unsatisfactory as to warrant its disturbance"⁷⁵. In this case the threat does not necessarily lie at the heart of a nuclear weapon's main charge but rather the threat lies in the emergence of a new equilibrium for which nuclear weapons/WMD will be a springboard.

What seems to be at stake is the “balance of power” and “the maintenance of international order by the special position of the great powers”, the two common institutions that in H. Bulls’ words, sustain international order, along with the institutions of international law and war.

Regarding the world order, I need to mention an argument in a book named “The Management of Savagery” by Abu Bakr Naji. But before doing so, I have to clarify a few points to rule out generalization and for distancing myself from the critics of the Islamic State. In some books the authors have made a reference to *The Management of Savagery* claiming that it has been influential in the development of the Islamic State and her tactics or has a lot in common with the Islamic State’s strategic plan. Unfortunately, the book is not referred to in a manner that its reputation requires. I’d say in some cases the authors have quoted parts of the book with misinterpretation and misconstruction. Furthermore it is claimed that the book is “widely circulated among provincial ISIS commanders and some rank-and-file fighters as a way to justify beheadings as not only religiously permissible but recommended by God and his prophet”⁷⁶. I do not agree with the latter point because my own reading of the book didn’t evoke any such understanding and I was surprised to realize that what I have already read is understood in a very different way by others. I had to go back to the book to find out that the quotes are decontextualized before being mentioned. However, I cannot fully disagree with the claims about the book’s influence because in the Islamic State sources it is also mentioned that “when Shaykh az-Zarqāwī read this book he commented, ‘It is as if the author knows what I’m planning’”⁷⁷. One may rightly argue that the Islamic State is influenced a lot by the book. But my reservation is that, in order to substantiate this claim, one has to prove that the Islamic Iraq’s state (IIS) could have evolved in a totally different way in the context of the situation in Iraq if the book did not exist. Though, I have to add that in the same source it is noted that “Although Nājī’s book describes very precisely the overall strategy of the mujāhidīn, Nājī fell into some errors in his discussions on issues related to the takfīr of parties who forcefully resist

the Sharī'ah and its laws". The Islamic State does not agree with those discussions and has elaborated on the subject of those discussion in different articles⁷⁸. This should raise the point that the Islamic State doesn't necessarily need Naji's erroneous reasoning as a justification for her actions as Hassan and Weiss like to argue in contrary⁷⁹.

When it comes to world order, Naji talks about "the system which manages the world since the era of Sykes-Picot"⁸⁰. To be brief ^{xxx1}, Naji argues that after the collapse of the caliphate^{xxxii}, her territories were divided into smaller states. These states were being ruled by the governments that came to power either by driving out colonial powers or by the support from the colonial powers. These governments established their rule either by military force or support from external powers. After the WWII these states started circling around the orbit of global order that the United Nations was its embodiment. However, the reality of this order is about two conflicting camps, led by two super powers, each entailed with several satellite states. The satellite states received military and economic support from the superpowers and in the case of the satellite states with Muslim population, these supports deeply entrenched the governments(dictatorial) in their position. The values of the superpower states with deceptive ornaments were trickled down and imposed on the population in the satellite states to replace local values. These governments were against the belief system of the population and after stagnating in decay, these governments looted and exploited these states and spread affliction over the population. Eventually he concludes that to overcome this situation, there are two important means, one is the power of the people and second is the power of armed forces. But, the regimes have monopolized the power of army and they have domesticated and dissipated the consciousness of the people by distractions such as lust, avarice, gluttony, running after a piece of food for survival or by spreading deceptive diversions in religion.

^{xxx1} I have also benefited from the translation provided by Institute for Strategic Studies at Harvard University.

^{xxxii} Since he is talking about the era after the Sykes-Picot agreement, it can be inferred that the Caliphate he is referring to is the Ottoman Empire. The Islamic State does not recognize that Ottomans were ever a Khalifah or Caliphate of Muslims and never had the eligibility to be considered as such.

The Islamic State’s arguments esp. parts of the speech from her top leaders attests to the Islamic State’s agreement with Naji’s argument about the world order as mentioned above. As explained earlier, the Islamic State does not agree with this order and tries to uproot it. This obviously means ruling out *Pacta sunt servanda*, application of force, mutual recognition of territorial integrity as the conditions of the current order requires but not necessarily as the conditions of a new/different order would require.

Second point that is mentioned in the array of threats is “Abolishing the free world” and “world domination” not only as a threat in the past from the communist block but also a threat which is today commonly attributed to the Islamic State by variety of authors along with exhaustive efforts to portray the Islamic State as a human-grinder machine. However, still one should not overlook the subjectivity of the perception in these proclaimed threats. For example, Daniel Milton in a report published by The Combating Terrorism Center at West Point (CTC), shows us the following picture and argues that “The boundaries of the Umayyad Caliphate match closely with images that have been posted online by supporters of the IS^{(foot note no. 99)xxxiii} (see Figure 1), Of course, figures posted online by activists do not a strategy or vision make”

Figure 1: One Possibility of the Envisioned Geographic Span of the IS’s Caliphate



Snapshot from “The Group That Calls Itself a State: Understanding the Evolution and Challenges of the Islamic State”⁸¹

^{xxxiii} His foot note no. 99 reads: “Don Mackay, “ISIS militants in Iraq proclaim new Islamic state and pose threat to ‘all countries,’” *Mirror*, 30 June 2014.”

Even so he tags “figure 1” as “One Possibility of the Envisioned Geographic Span of the IS’s Caliphate” and then he argues that “If we move beyond what the supporters of the IS have posted, it is also clear from the public comments of IS leadership that the recent gains made by the IS in Syria and Iraq represent merely a first step in establishing what they hope will be a wide-ranging empire. ^(Footnote no. 100)” and he footnotes that (his footnote no. 100):

“For the most part, this map matches the areas that Baghdadi identified in his speech in Mosul in the summer of 2014 as places where “Muslim’s rights are forcibly seized.” The specific areas he mentioned are as follows: China, India, Palestine, Somalia, the Arabian Peninsula, the Caucasus, Sham (Syria), Egypt, Iraq, Indonesia, Afghanistan, the Philippines, Ahvaz, Iran, Pakistan, Tunisia, Libya, Algeria, and Morocco. The areas Baghdadi mentioned outside of the area contained in Figure 1 hold special importance for his efforts: Indonesia (the largest population of Muslims in the world) and the Philippines (an area where Islamic terrorist organizations have pledged support to the IS). See Abu Bakr al-Husayni al-Qurashi al-Baghdadi, “A Message to the Mujahidin and the Muslim Ummah in the Month of Ramadan,” translated by Al-Hayat Media Center, 5 July 2014, p. 3.”

In fact I have also used the same source in this paper in the arguments of the first section of this chapter,^{xxxiv} and to me Daniel Milton has decontextualized and misquoted Abu Bakr Al-Baghdadi’s words. The sentence (“Muslim’s rights are forcibly seized.”) in Daniel Milton’s footnote is from the following paragraph from the same speech:

“Indeed, the Ummah of Islam is watching your jihad with eyes of hope, and indeed you have brothers in many parts of the world being inflicted with the worst kinds of torture. Their honor is being violated. Their blood is being spilled. Prisoners are moaning and crying for help. Orphans and widows are complaining of their plight. Women who have lost their children are weeping. Masājid (plural of masjid) are desecrated and sanctities are violated. Muslims’ rights are forcibly seized in China, India, Palestine, Somalia, the Arabian Peninsula, the Caucasus, Shām (the

^{xxxiv} Al Husayni Al- Qurashi Al- Baghdadi, A. (2014). *A message to the Mujahideen and the Muslim Ummah in the Month of Ramadan*. Al Hayat Media Center

Levant), Egypt, Iraq, Indonesia, Afghanistan, the Philippines, Ahvaz, Iran [by the rāfidah (shia)], Pakistan, Tunisia, Libya, Algeria and Morocco, in the East and in the West.

Now if one reads the whole speech or the parts of the speech I have so far mentioned in this paper, I seriously doubt if one could come up with the conclusion that Daniel Milton has drawn. This definitely reveals the subjectivity of threat perception. We understand it in different ways. Though, I find it fundamentally incorrect to base an argument on misquotations^{xxxv} and coupling it with a photoshopped picture that is shared by a sympathizer.^{xxxvi}

3.5. Conclusion

For Islamic State founders, Khilafah has been for the betterment of Ummah's situation. The path to Khilafah and emergence of the Islamic State has been paved by the incompetence of incumbent governments and the widespread reach of the Islamic State's ideology. The success of the Islamic State on the ground poses the idea that it is the incumbent governments who are a threat to the sovereignty of their respective state.

The Islamic State has rhetorically rejected any intention to socialize with other members of the international society of states for as long as the standards of socialization is exclusively set by them. This could be better understood when taking into consideration that the current structure of the international politics is determined by the predominant states. Therefore, there are concerns about the transformation of the Middle East's political map in

^{xxxv} I have downloaded a video clip from Youtube which shows all the continents of the planet Earth covered with the Islamic State's flag. Probably posted by an Islamic State fan. I have also heard Islamic state leaders who have said in reference to Quran that "The Earth belongs to Allah" [7:128]. Is this enough evidence to assume that the Islamic State is planning to conquer the planet?!! Anyone arguing that The Islamic State is after "world domination" may say "yes, this is enough evidence"

^{xxxvi} This may explain why The Combating Terrorism Center At West Point(CTC) which is credited for publishing intercepted letters and "letters from Abbottabad" disclaims that "The views expressed in this report are the authors' and do not necessarily reflect those of the Combating Terrorism Center, U.S. Military Academy, Department of Defense, or U.S. government" while to my confusion CTC acknowledges that "The Combating Terrorism Center (CTC) at West Point brings together a collection of intelligent and motivated individuals dedicated toward a greater understanding of this problem set."(in reference to the Islamic State). But for sure it was them who handpicked the authors.

case the Islamic State is not defeated. This concern is magnified by the Islamic State's plan to change the current world order in a more favorable terms to the interests of Ummah; Her units of international relations involve two players, Ummah and Kuffar. In this regard, redistribution of capabilities and structural challenges has aroused typical but inevitable backlashes against the Islamic State.

CHAPTER 4

ISLAMIC STATE VS. INTERNATIONAL LAW

4.1. Introduction

In this chapter I intend to address some of the challenges by the Islamic State that could be clarified from the perspective of international law. In fact, this chapter is the extension of some of the arguments in the previous chapters. For this reason, supporting arguments will not be provided. The scope of this attempt will be limited geographically to Syria and Iraq as an example and substantively confined only to customary international law and three pressing issues of commencement, secession, and extinction.

4.2. Sharia Law vs. Customary International Law

The Islamic State is deeply disappointed with the current international organizations and the values they are trying to preserve such as the nation-state system or democracy and etc. since they have not been helpful in safeguarding Umma's interests. This stance is very observable as the Islamic State censures the military factions from Syria for their agreements and joint declarations with the heads of states or United Nations' envoys in which the factions have acknowledged their commitment to democracy, Geneva communiqués or United Nations Security Council resolutions. The same criticism is even leveled at all the other leaders from Muslim states; even those who once upon a time were ambitious and hopeful such as Muhammad Morsi of Egypt. In a different example we find that while the Islamic State aims to remove the international borders and unify the Muslims, the International organizations emphatically strive to emphasize on the inviolability of international borders. Similarly, while International law tries to contain the application of force in resolving the international conflicts, for the Islamic State resorting to the application of force is legitimate and justifiable to achieve her goals since she considers herself at the state of war, moreover because of the belief that the

injustice will only be undone by the use of force since it was perpetrated by the use of force. As Anwar al-Awlaki puts it, “Today we cannot expect Palestine, Iraq or Afghanistan to be freed again except by force”¹. As mentioned earlier, revenge and response in kind is not ruled out and this is well expressed in the words of the Islamic State’s spokesman, Shaykh Abū Muhammad al-Adnānī ash-Shāmī, who addressed all those who have waged war against the Islamic State according to any justification: “know that we do not differentiate between these intents and goals and that our ruling upon you after overpowering you is one: a bullet splitting the head or a sharp knife inside the neck”²

Perhaps the Islamic State’s basic opposition to International law could be better observed in the light of customary International law(CIL). ICJ’s Article.38.b. vaguely describes international custom as “evidence of a general practice accepted as law”. Professor Anthony D’Amato argues that indeed custom is the number one source of International law and superior to treaty-law described by Article.38.a. as “international conventions, whether general or particular, establishing rules expressly recognized by the contesting states”. He argues, this is because even in the case of a well written treaty, disputes arise and to resolve the disputes and interpret the treaty, customary International law must be studied for the resolution. He further argues that international customs are general and universal; it exists because states exist, a state is defined by them and all states are bound by them³. The same opinion is repeated by “Committee On Formation of Customary (General) International Law”⁴ of the International Law Association(ILA). In their report in the wake of London Conference (2000) adopted by Resolution No. 16/2000, Article.1 states:

“1.

i. ... a rule of customary international law is one which is created and sustained by the constant and uniform practice of States and other subjects of international law in or impinging upon their international legal relations, in circumstances which give rise to a legitimate expectation of similar conduct in the future

ii. If a sufficiently extensive and representative number of States participate in such a practice in a consistent manner, the resulting rule is one of “general customary international law”. Subject to Section 15ⁱ, such a rule is binding on all States.

iii. Where a rule of general customary international law exists, for any particular State to be bound by that rule it is not necessary to prove either that State’s consent to it or its belief in the rule’s obligatory or (as the case may be) permissive character”

Here, there are two points that concerns my subject of argument. The first point arises from the ambiguity of the customary international law which also plagues the international law jurisprudence. Professor Emily Kadens observes that this is “due to the Failure of courts and scholars to pin point a fully functioning definitional yardstick against which to measure claimed international customs. In other words, we don’t know how to know an international custom when we see one”⁵ This point becomes problematic when we take into account the evolution of current international law from Law of Nations or *ius gentium*, intertwined with *ius naturale* of Roman times and later infused with the Judeo-Christian Faith. E. Kadens in reference to the definition of customary international law by ICJ says “the debt to the Romans is obvious”. Professor Renée Jeffery in her book *Hugo Grotius in International Thought* traces the so-called Grotian tradition/morality to conclude in the last paragraph of her book that:

“Despite its marginalization in contemporary scholarship, religion has played a central role in the histories of international political and legal thought. In an obvious sense, many of the “greats” of international legal and political scholarship are scholars who considered theology alongside international affairs; more than that, considered international affairs in terms of theology. The most obvious examples of such scholars include the Spanish Scholastics Francisco de Vitoria and Francisco Suárez and, of course, Grotius himself. Indeed, this work not only demonstrates the centrality of religious ideas to international political and legal thought but seems to confirm Philpott’s contention that “[r]eligious ideas . . . are at the root of international relations.”⁶

ⁱ “Article 15. If whilst a practice is developing into a rule of general law, a State persistently and openly dissents from the rule, it will not be bound by it.”

As an example to this conclusion I may cite Brian Tierney. After explaining Francisco de Vitoria's scholasticism in *Relectio de Indis* he argues that: "Much earlier, in the mid-thirteenth century, Pope Innocent IV had acknowledged that 'dominion, possession, and jurisdiction' could rightfully belong to infidels. But the infidels that Innocent had in mind were Muslims, people at least as advanced in civilization as the Christians themselves."⁷ Another example that might be more controversial and relevant to arguments is in reference to Crusades and Palestine:

"In the territorial swapping that followed World War I, the British prevailed on France to detach Palestine and oil-favored Mosul from Syria, annexing the latter to Iraq and dividing the former into the mandatory states of Palestine and Transjordan. There followed a further subtraction when the French, claiming rights dating to the Crusades, assumed a victor's rights in Syria and Lebanon. Their triumphant mood was voiced by General Henri Gouraud, later High Commissioner in the Levant, when he entered Damascus in July 1920. Pausing at the tomb of Saladin in the Grand Mosque, the general kicked it and exclaimed (as he thought) for the ages, "Awake Saladin! We have returned! My presence here consecrates the victory of the Cross over the Crescent!"⁸

R. Jeffery's conclusion very much resembles my own conclusion in the 2nd chapter of this thesis. There I argued that the Islamic State puts the current political situation within the context of Islam's history i.e. considers "international affairs in terms of theology". Therefore, the challenging question to ask before thrusting aside the Islamic State's insistence on Sharia Law is: how much of today's treaty-law and customary international law (if ever definite and open to alteration) is rooted in the Judeo-Christianity (or Kufr as The Islamic State would refer to it)? the second point that amplifies the first problem is well expressed by Emily Kadens when she asks:

"Who is bound by a custom? This is of great significance in the international arena because the basic rules of customary international law were created by Western imperialist states. So

does that mean that non-Western and new states should be bound to something in which they had no hand in creating and to which they were never given the option to choose to consent to?”⁹

ILA’s “Committee On Formation of Customary (General) International Law” seem to agree when it mentions in the introduction of its report that:

“2. Despite the fact that customary law is one of the two principal sources of international law (the other being treaty law), there are inherent serious difficulties in setting out the rules on this subject, for a number of reasons... Thirdly, some issues have important political implications. To take but the best-known instance, the question whether customary international law can be made by resolutions of the UN General Assembly is of considerable political significance, given that, in the Assembly, developed countries are considerably outnumbered by developing ones”¹⁰

Shaykh Anwar al-Awlaki, a former senior figure in Al-Qaeda, who is also praised by the Islamic State and whose speeches are occasionally featured in the Islamic State’s publications, argued that:

“The Western powers came into domination after they exterminated the Ottoman Khilafahⁱⁱ and divided it amongst themselves into zones of influence. They destroyed the Khilafah, established control over the international community and then came up with these treaties; and we were not there at the table, we had no representation whatsoever, we were completely and utterly ignored in the decision making process on the world stage. We were not even present at the signing ceremonies. So why are we bound to those treaties? What kind of Fiqh or logic would make such treaties binding on us? We had no part and no say in any of these treaties. We only have a presence in the crammed hall of the general assembly of the United Nations, but not at the Security Council which is still off limits to the 50 plus Muslim states.ⁱⁱⁱ Probably they should read up a bit and refresh their memories with, not wars of the past centuries, but the wars fought recently by these particular democratic nations they are trying to protect. They should remember WWII, the most

ⁱⁱ The Islamic State does not recognize that Ottomans were ever a Khalifah or Caliphate of Muslims and never had the eligibility to be considered as such.

ⁱⁱⁱ Al-Awlaki’s footnote: “It needs to be noted that I am only describing the current state of affairs. By no means should it be understood to be an approval of Muslims states being part of the United Nations.

devastating war man has ever fought; the war in which the greatest number of soldiers and civilians ever died. It was also the first war in modern history where the number of civilians killed was greater than the number of soldiers. About 30 million soldiers and about 50 million civilians lost their lives in this brutal war. Then came Korea, Vietnam, and now Iraq and Afghanistan. For the last fifty years the Palestinian dilemma has been a shameful chapter in the book of humanity. Have we already forgotten the war of the Balkans where Europe watched in silence the genocide of European Muslims?"¹¹

There's also another way of understanding Al-Awlaki's arguments by considering the case of Palestine. I should first recall Jack Straw, former U.K. Secretary of State for Foreign and Commonwealth Affairs, who in 2002 stated in his interview with the *NewStatesman* magazine that "A lot of the problems we are having to deal with now, I have to deal with now, are a consequence of our colonial past"¹².

Palestine's case is the bedrock of "modern Jihad" and a fruit of colonialism which explains much of the discontent with the international law. Palestine's case is out of the purview of this thesis but it suffices to recall that after the collapse of the Ottoman empire, Palestine was occupied by Britain in 1917. In the 2nd November 1917 Lord Balfour's declaration provisioned a "national home for the Jewish people". Later on, Article 22 of the Covenant of the League of Nations recognizes the British Mandate which was based on the Balfour declaration and consequently came the division of Palestine after the Lausanne treaty. Afterwards, Article 80 of the UN Charter recognized the Mandate. On the other hand, despite all the illegalities from the perspective of international law, the UN accepts Israel's membership as a "peace loving state" (as the French delegation proposed). Up until this day Palestinians are the subject of Israeli apartheid and massacre in their own home. The promise of "Jewish national home" is still being entertained by Israeli officials and most recently by Benjamin Netanyahu, controversially in a manner that seems to be much different and expansionist than what had been initially promised. The promise, both initially and afterwards

is essentially based on religion. The promise has never meant a home for Hebrew speakers, but a home for all those who adhere to Judaism irrespective of color, language or race. Though, all the Western states backing Israel in her domestic and foreign policies have both directly and indirectly shored up politics in terms of religion. Therefore, why would anyone expect the Islamic State to conform to international law and its front institutions or organizations that are a monopoly of the same predominant states who created all these legalities to back their own faith? The Islamic State's insistence on Sharia Law is a genuine and very expectable reaction to the reality. If we also take into consideration the arguments in the second chapter and Abu Bakr Naji's arguments in his book "The Management of Savagery"^{iv} then we may conclude that for the Islamic State, the Kuffars' institution of international law has bombed its way towards East to subjugate Ummah. so why customary international law but not Sharia law?

In the Salafi strand of Islam and without doubt in different strands of Islam too, there is a consensus among scholars and believers that the divine rule of the creator is superior to manmade laws. As Dr. Zakir Naik, an international orator on Islam and Comparative Religion puts it: in Islam we don't believe in majority/democracy, we believe in truth and Haqq(Truth) prevails, the person who has created us is almighty God, he knows what is good and what is bad for us¹³. Accordingly, The Islamic State by default does not accept the manmade laws of the international law that is enforced by the institution of war. For the same reason, the international organizations are also unacceptable for the Islamic State. In fact the main regulating function of international organizations is building consensus for agreements, resolutions or conventions that formally must be in accordance with the international laws whose sources are all manmade as mentioned in the statute of the International Court of Justice(ICJ)¹⁴, Article 38^v. The Islamic State finds the source of legitimacy in the Sharia law

^{iv} Refer to the 2nd Chapter.

^v (a) Treaties between States; (b) Customary international law derived from the practice of States; (c) General principles of law recognized by civilized nations; and, as subsidiary means for the determination of rules of international law: (d) Judicial decisions and the writings of "the most highly qualified publicists".

that probably like any other religious law has been interwoven with fabrics and patchwork of its hosting society. In fact, in domestic sphere Sharia law has introduced its own customary laws that is being practiced in Muslim countries; encompassing from very basic conventions of the society to civil and constitutional law. Defining nation in terms of Islam is nothing but carrying Sharia law to the international sphere. Much the same as defining *ius cogens* in terms of Christianity.

According to Dr. Zakir Naik, Sharia, literally means “the clear path to follow”¹⁵. It is derived from four sources:

- 1- Quran
- 2- Sunnah i.e. The way of the prophet; doings of prophet according to *Sahih Hadith* (authentic sayings of the Prophet) – This is a commentary on Quran and its obligatory force comes from Quran, chapter 4, Verse 59: “obey Allah and obey the Messenger”.
- 3- *Ijma* i.e. the consensus of opinions of *Salaf Salihin* (the first three generations of prophet Muhammad’s companions and Jurists in the first three centuries of Hijra^{vi})
- 4- *Qiyas*^{vii} i.e. to judge by reasoning according to analogy

Here I find an interesting resemblance. The first item is considered as the constitution. The second item (practice) and the third item (repetition) resemble custom making process in case “custom arises from behavior frequently repeated over an indeterminate long period of time to which the community has tacitly agreed”. The fourth item resembles the “common law” and ICJ capitalizes on it by frequently making references to the previous cases of litigation, because ICJ considers them an international precedent for a certain situation under certain circumstances.

^{vi} Migration of prophet Muhammad and his companions from Mecca to Medina in 622 CE.

^{vii} *Qiyas* is the means of last resort in adjunction and for many Salafis it is an incorrect method of reaching a conclusion. I mentioned *Qiyas* here because: a) to portray a general view of Sharia’s resources b) to avoid tampering with the original explanation. Dr. Zakir Naik is considered to be a Salafi and in this respect his judgement definitely overrules mine. c) to show the resemblance between sources of Sharia law vis a vis international law.

In case the Islamic State continues to grow and many more states become incorporated within the Khilafah, the emergence or rather evolution of the customary international law and in general the institution of international law will be inevitable. So much so that even the very basic concepts encompassed by *jus cogens erga omnes* will not be spared. For example, as mentioned in the previous chapter, the Islamic State would definitely consider for herself the right of procuring nuclear weapons to secure her existence in case she expands and finds such a capability. This would simply mean abrogation of non-proliferation.

4.3. *De facto* Statehood of the Islamic State

The Islamic State's establishment has posed considerable challenges that seems to be inherent in the International law. These problems are secession, establishment of new states, and extinction of the current states. Arguing these challenges requires substantiating the Islamic State's statehood. Montevideo Convention on Rights and Duties of States (December 26, 1933) is said to have provided *ex factis jus oritur* of statehood. Article 1 reads that "The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states."¹⁶

In respect to "capacity to enter into relations with the other states", I have to argue that this capacity could be evaluated only after a relationship is forged. This criterion is more or less an attribute of a state rather than a requirement for *de facto* statehood. As J. Crawford argues: "Capacity to enter into relations with States at the international level is no longer, if it ever was, an exclusive State prerogative. True, States preeminently possess that capacity, but this is a consequence of statehood, not a criterion for it"¹⁷

In respect to "permanent population" the Islamic State confidently has permanent population. According to geoba.se which collects data from "the Geonames.org, the U.S. Census, The World Bank, The CIA World Fact-book, YR.NO, the National Weather Service,

Google and Yahoo data APIs and webcams.travel”¹⁸ in 2015, 69 states were estimated to have a population of less than 1 million. However, in the same year reportedly there were 10 million people living in the Islamic State controlled territories¹⁹. Apart from the estimates in the news we may also logically draw the same conclusion if we take into consideration the evolution and effective governance of the Islamic State as mentioned in the previous chapter. One may argue that the Islamic State’s definition of Ummah encompasses all the Muslims around the world and this means lack of permanent population and also a pretext for territorial expansion. Apart from retaliatory rhetoric, in fact this claim is not in conformity with the Islamic State’s own arguments. The Islamic State has yet to argue that per se she shall expand to Finland because there are Muslims living there.^{viii} To argue that the definition of Ummah is too broad to be definitely permanent is to argue that citizenship/nationality should be confined only to those within certain borders. J. Crawford in reference to *Nottebohm Case (Second Phase)*^{ix}, argues that “Permanent population... is not a rule relating to the nationality of that population. It appears that the grant of nationality is a matter that only States by their municipal law (or by way of treaty) can perform. Nationality is dependent upon statehood, not vice versa.”²⁰

In respect to defined territory, The Islamic State in one of their videos published in November 2015 claimed that her territories are over 240,000 KM², “greater than Britain, 8 times the size of Belgium and 30 times the size of Qatar.”²¹ The reality on the ground may also attest to the claim. The point to be mentioned here is that expansion or compression of the Islamic State’s territories within the current borders of Iraq and Syria are corollary to the war waged on her. The norm in the international law as J. Crawford puts it is that:

“Customary international law prohibits the settlement of territorial disputes between States by the threat or use of force, and a State for the purpose of this rule means any entity established as a State in a given territory, whether or not that territory formerly belonged to, or is claimed by,

^{viii} “World domination” claim was clarified in the 2nd chapter.

^{ix} *Nottebohm Case (Second Phase)*, ICJ Rep 1955 p 4, 23.

another State. It is only to be expected then that claims to less than the entire territory of a new State, in particular boundary disputes, do not affect statehood. A German–Polish Mixed Arbitral Tribunal stated the rule succinctly: ‘Whatever may be the importance of the delimitation of boundaries, one cannot go so far as to maintain that as long as this delimitation has not been legally effected the State in question cannot be considered as having any territory whatever . . . In order to say that a State exists . . . it is enough that this territory has a sufficient consistency, even though its boundaries have not yet been accurately delimited, and that the State actually exercises independent public authority over that territory’ . . . Thus even substantial boundary or territorial dispute with a new State is not enough, of itself, to bring statehood into question. The only requirement is that the State must consist of a certain coherent territory effectively governed—a formula that suggests that the requirement of territory is rather a constituent of government and independence than a distinct criterion of its own.”²²

Israel is the best example for this line of argument. Israel declared independence in 14th May 1948 and one year later became a member of the United Nations as a “peace loving state” in 11th May 1949.

If in several countries there are uprisings who are willing to annex their territories to the Islamic State and live by her standards, then this is not genuinely a threat emanating from the Islamic State but a threat arisen from depriving the discontented population of their right to self-determination within the very state they live. Expansion of the Islamic State in this manner is more or less due to the widespread reach of her ideology. For some states the same threat may as well emanate from democracy, Wahhabism (sic) Atheism, Shiism, Maoism and etc. Each state sponsors a certain ideology; however, ideologies live and survive thanks to their human host not a certain state.

In respect to governance I elaborated extensively on the Islamic State’s capabilities in the 3rd chapter. In line with the definition of government in the previous chapter J. Crawford’s explains that:

“One of the prerequisites for statehood is the existence of an effective government; and the main—for most purposes the only—organ by which the State acts in international relations is its central government... international law defines ‘territory’ not by adopting private law analogies of real property but by reference to the extent of governmental power exercised, or capable of being exercised, with respect to some territory and population. Territorial sovereignty is not ownership of but governing power with respect to territory. There is thus a good case for regarding government as the most important single criterion of statehood, since all the others depend upon it. This is true equally for external as internal affairs. Governmental authority is the basis for normal inter-State relations; what is an act of a State is defined primarily by reference to its organs of government, legislative, executive or judicial”²³

If the criterion for statehood are the abovementioned standards, then the Islamic State is indeed a *de facto* state. The evolution and resilience of the Islamic State is an example that manifests all the statehood criterions. The core organization of the state, “Jamaat Al-Tawheed wa Al-Jihad (community of monotheists and Jihad)” was established in October 2003. The organization evolved into the Islamic State until the declaration of Khilafah or the Islamic State in June 2014. In August 2014 U.S. started airstrikes against the Islamic State inside Iraq and later in September extended it to Syria. Today as of writing this chapter i.e. May 2016, The Islamic State is still the strongest and most capable of all the military organization in Iraq and Syria while not only U.S. but also her allies and all the neighboring countries and their allies are in the same camp at war with the Islamic State.

To argue that the Islamic State is not a *de facto* state is out of question by now, and not a well-founded reason for intervention and bombing campaigns as though it is a fight against pirates in the open seas. To bring more clarity to the issue of statehood we have to distinguish between *de facto* statehood and *de jure* statehood, or legal personality i.e. “state for the purpose of international law” to hold states bound by set of rules and accountable. Therefor the issue of recognition has to be dealt with. Recognition is not what makes an entity a state but an entity

is recognized because it is a state. To argue that recognition is a criterion for statehood is to some extent based on the assumption that there is an exogenous set of standards that must be fulfilled at the outset of statehood. This may seem similar to the constitutive theory. The distinction is that the declaratory doctrine addresses the factual nature of the state while the constitutive theory addresses the international/legal personality of the state. The distinction may have been well expressed in a German-Polish Mixed Arbitral Tribunal's statement: "State exists by itself and the recognition is nothing else than a declaration of this existence"²⁴. Statehood is neither owed to recognition nor to international law. Ti-Chiang Chen's put it very clearly:

"In contrast to the positivist theory, the natural law theory is one which purports to furnish an explanation for the ultimate obligatory character of international law, apart from the wills of individual States. In this theory, the declaratory doctrine of recognition finds a natural alliance. For to argue that a State can become a subject of international law without, the assent of the existing States, it is necessary to assume the existence of an objective system of law to which the new State owes its being. The existence of such a system of law is the basic condition for the validity of the declaratory theory."²⁵

Non-recognition must not be an excuse for intervention even an intervention against the Islamic State that has not yet recognized the legitimacy and superiority of the international law over her affairs. Formally, International law is applicable to her subjects even in the case of humanitarian issues. Consider for example the Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949. Articles 1- 3 are self-explanatory in respect to the scope and application of the convention. In another example we have Article 10 in the International Law Commission's "Responsibility of States for Internationally Wrongful Acts" states:

"Article 10 - Conduct of an insurrectional or other movement

1. The conduct of an insurrectional movement which becomes the new Government of a State shall be considered an act of that State under international law.

2. The conduct of a movement, insurrectional or other, which succeeds in establishing a new State in part of the territory of a pre-existing State or in a territory under its administration shall be considered an act of the new State under international law.

3. This article is without prejudice to the attribution to a State of any conduct, however related to that of the movement concerned, which is to be considered an act of that State by virtue of articles 4 to 9.”²⁶

In practice and virtually any *de facto* state is not necessarily required to show signs of conformity per se to Geneva conventions or in general to international law in order to remove alibies for intervention or hostility. Because, even showing signs of conformity to any convention or International law in general is not a guarantee for recognizing a *de facto* state’s legal personality. Even internationally recognized states encounter aggression. We have had enough examples of *de facto* states with *de jure* personality whose sovereignty and right to self-determination has been denied e.g. Iraq, the home country of the Islamic State. However, International law seems to have provisioned accountability of any State whose process of state building was accompanied with violations of human rights.

4.4. Islamic State’s statehood and legal challenges in the International Law

As explained in the 3rd chapter, the Islamic State doesn’t want to be a successor to the states of Syria, Iraq or any other state in which she may prevail. Therefore, I find three major challenges that the Islamic State poses to the international law. These challenges are in respect to commencement, secession and extinction. *De facto* statehood of the Islamic State is a matter of commencement. The right to self-determination could leads us to the issues of secession and extinction.

In respect to the principle of self-determination, “Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in Vienna on 25 June 1993” which was endorsed in the 48th session of the General Assembly (resolution 48/121, of 1994) is noteworthy. Second article of the declaration reads as follows:

“2. All peoples have the right of self-determination. By virtue of that right they freely determine their political status, and freely pursue their economic, social and cultural development...”

In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.”²⁷

At first sight, Islamic State’s statehood is in violation of this opinion that is endorsed by the General Assembly members. The reasons why the Islamic State is definitely against this opinion was extensively explained in the 3rd chapter. As we will see about secession and extinction issues, this principle as defined above is emphatically practiced. But there are two major ambiguities in Article 2.

First, “All peoples have the right of self-determination”. J. Crawford argues that according to current practice, the unit entitled to self-determination must be first determined. I may conclude that this means the claim of “All peoples” is out of question. Then he adds that self-determination is also entitled to “other territories forming distinct political-geographical areas, whose inhabitants are arbitrarily excluded from any share in the government either of the region or of the State to which they belong, with the result that the territory becomes in effect, with respect to the remainder of the State, non-self-governing”²⁸ This is obviously the case with the Islamic State both as a matter of fact and as they themselves claim. The second ambiguity is secession from “sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind”²⁹.

The current state of affairs conveys that the international society of states and her International law could have two kind of considerations in respect to self-determination. 1- The Islamic State is not entitled to self-determination. 2- The governments in Iraq and Syria fulfill the requirements of the latter part of the Article.2. Either consideration is in stark contrast to my findings as mentioned in the previous chapter. I do not find my own findings to be erroneous because the information was retrieved from partially verifiable, both from pro & con sources. Even though the resolutions of the General Assembly are not binding in nature, but some authors such as Professor Christopher Greenwood, Judge of the International Court of Justice, argues that its contribution to the treaties (the first item mentioned in the sources of international law by the international court of justice's statute Article 38) must not be underestimated. If a declaration whose composition was commissioned by the very international body that later endorsed it in the form of a resolution is irrelevant to the situation at hand, then the arguments from international law is equally irrelevant. The point I want to get at is that if the above mentioned declaration in the form of the General Assembly's resolution is negligible, then the principle of the self-determination is not a challenge that must be taken into consideration in respect to the Islamic State's *de facto* statehood. As a result, we have to ignore the General Assembly and her resolutions and the principle of self-determination and move forwards to the issues of secession and extinction by only having the permanent members of the United Nations Security Council (UNSC) in mind if we are to approach the challenges from the Islamic State from the perspective of the International law, a law whose enforcement is relies on UNSC.

Here, self-determination in the international realm means the sovereign equality of every individual state. In other words, "the principle of self-determination is represented by the rule against intervention in the internal affairs of that State, and in particular in the choice of the form of government of the State"³⁰. This is in line with H. Bull's definition of "external

sovereignty” as was mentioned before. The purpose of this recalling is to show the abrogation of the principle in practice and to ask whether a legal challenge is in question or not. In this case invasion of Iraq is a case in point and very much relevant to what have been argued so far.

The Western states led by the U.S. invaded Iraq in 2003, in 2004 installed an interim administration and in 2005 elections were held. The elections were held while it was boycotted and protests erupted in its aftermath. According to BBC News, even despite the allegations of fraud “The UN adviser to Iraq's election commission, Craig Jenness, said the complaints were not significant”³¹This is the same elections that according to Crisis Group “helped put Iraq on the path to all-out civil war”³². Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 can direct us to the point since almost all the belligerents are party to it:

“Article 4. Definition of protected persons

Persons protected by the Convention are those who at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Article 47. Inviolability of rights

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.”³³

Also Article.2 and Article.6 are holding the occupying forces responsible from the beginning of the aggression until “one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions” that

have been outlined in the convention. The country might have had a *formal independence* but the situation on the ground, as parts of which were mentioned in the previous chapter, and the continued presence and influence of the foreign states in the country's key governmental and military positions are evidentially establishing the country's lack of *actual independence*. In this respect, the European Court of Human Rights' judgement on a case lodged by Titina Loizidou's on 22 July 1989 against the Republic of Turkey is explanatory. 54th and 56th Paragraphs in the ruling stated:

“54. ... throughout the proceedings the Turkish Government have denied State responsibility for the matters complained of, maintaining that its armed forces are acting exclusively in conjunction with and on behalf of the allegedly independent and autonomous 'TRNC' authorities.

56. It is not necessary to determine whether, as the applicant and the Government of Cyprus have suggested, Turkey actually exercises detailed control over the policies and actions of the authorities of the 'TRNC'. It is obvious from the large number of troops engaged in active duties in northern Cyprus ... that her army exercises effective overall control over that part of the island. Such control, according to the relevant test and in the circumstances of the case, entails her responsibility for the policies and actions of the 'TRNC'...”³⁴

In the case of Iraq, the whole country was occupied, sham elections were legitimized, civil war erupted, the government established under these circumstances is still considered legitimate, foreign combat troops reportedly withdrew 8 years after occupation but later returned and the country's situation in every respect is degrading since the day it was occupied esp. compared to pre-occupation period. So where is the question of self-determination? How come that elections in Iraq are legitimized but in TRNC or in Donbas (Eastern Ukraine) or in Crimea are condemned? In the latter cases even UN and OSCE refused to attend. How come the Islamic State which has so far survived without foreign aid is not “All peoples” and entitled to the right of self-determination but the Iraqi government which cannot survive without foreign aid is considered to be “sovereign and independent States conducting themselves in

compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind”?

J. Crawford’s argument after analyzing several cases about secession is that:

“Nonetheless, by comparison with the acceptance of self-determination leading to the independence of colonial territories covered by Chapters XI and XII of the Charter (‘external self-determination’), the practice regarding unilateral secession of non-colonial territories is very different. Since 1945 the international community has been extremely reluctant to accept unilateral secession of parts of independent States if the secession is opposed by the government of that State. In such cases the principle of territorial integrity has been a significant limitation. Since 1945 no State which has been created by unilateral secession has been admitted to the United Nations against the declared wishes of the government of the predecessor State. By contrast there are many examples of failed attempts at unilateral secession, including cases where the seceding entity maintained de facto independence for some time.”³⁵

Unfortunately, the author never explained why this has been the case. Even though the description applies to the Islamic State’s situation but earlier in time there has been an exception to the *modus operandi* which were justified on the basis of foreign imposed *fait accompli*. Bangladesh is one example whose secession from Pakistan in the mid-1970s was actualized after the illegal intervention of India. Pakistan’s recognition of Bangladesh as a state was almost due to her inability to challenge the state of affairs that was culminated after the Indian intervention. No matter what justifications are provided to exempt the case of Bangladesh from the principles (e.g. self-determination as described earlier) or the *modus operandi*. Anyone concerned about the case would also have his/her justifications for as long as it is not backed by making a reference to International law. By mathematical/logical reasoning of “Proof by contradiction” one may ask how the situation could have evolved without intervention. In other words, what if the *fait accompli* as a corollary to Indian

intervention was not imposed on Pakistan? In relevance to our case, why no one supported Pakistan against the Bengalis as everyone is supporting the Iraqi governments against the Islamic State? To argue that exceptional circumstances applied to Bangladesh is to argue that the international law is not selectively applied. If application of the law has been even but rife with anomalies, then basically it is not a law to begin with addressing the dispute. Another example is the case of former Yugoslavia.

“The international response to the Yugoslav crisis was largely articulated through the Conference on Yugoslavia established on 27 August 1991 by the European Communities. The Conference on Yugoslavia established an Arbitration Commission presided over by Robert Badinter, President of the French Constitutional Court, to advise it on legal issues in relation to the crisis. In its Opinion No 1 of 29 November 1991, the Commission expressed the view that the situation in Yugoslavia was one involving the dissolution of the Federal Republic and the consequent emergence of its constituent republics as independent States, although that process was not yet complete... neither the European Union nor the United Nations proclaimed that the peoples of Yugoslavia had a prior right to secede by virtue of the principle of self-determination.”³⁶

Like the previous example, one needs to ask if Yugoslavia could have dissolved in the absence of foreign intervention. “The appropriateness of the international response to the Yugoslav crisis continues to be debated. In particular, the early recognition of Croatia and Bosnia-Herzegovina by member States of the European Union remains controversial, as too the unduly delayed recognition of Macedonia. The Arbitration Commission has been criticised for advocating, inter alia, notions about protection of minorities which go well beyond current international law, and for failing to take into account standard criteria for independence based on effective control of territory.”³⁷

In respect to the two abovementioned example, although it is argued that the principle of self-determination was not the basis for the international reaction, nevertheless, what happened

in practice was in conformity with the definition of the self-determination (Article.2) which is also known as the “safeguard clause”. If not formally but in actuality Bangladesh and post-Yugoslav states were considered a subject of self-determination respectively under the pretext of “irreversible circumstances” and “dissolution/extinction”. In our case in this paper we find that the second part of the “safeguard clause” is emphatically applied to Iraq and Syria. Having the Islamic State’s agenda in mind, Marek’s argument is illustrative: “At the same time, the final loss of independence, either by way of a legal settlement or by way of a total obliteration of the entire international delimitation of a State, signified its extinction”³⁸ or in other words “effective submersion and disappearance of separate State organs in those of another State over a considerable period of time will normally result in the extinction of the State, so long as no substantial international illegality is involved and there is no other perceived international interest in asserting the continuity of the State”³⁹

4.5. Conclusion

The Islamic State’s opposition to International law is essentially for two reasons. First, the international law has failed to protect the legal rights of Ummah and force nation states to respect them. Second, while Sharia law exists Ummah shouldn’t obey foreign and manmade laws that are imposed on her. Secession and extinction are the issues that are not appreciated by the International law and perhaps the “safeguard clause” has been an attempt to strike a balance between this conservatism and notions of justice for any group of people who may oppose this conservatism. No doubt that states as the basic unit of international relations and as the “judge, jury and executioner” of the international law would never sanction a self-destructive motion. The standards to distinguish the right to self-determination or “the right to be a state” and consequently the right to secession that could lead to the extinction of the parent state, do not seem to exist within the body of law and if it does, the application of the law proves to the contrary.

CHAPTER 5

CONCLUSION

Occupation of Palestine, Military intervention in Muslim states by non-Muslim states, the non-Muslim states' support for Israel and for all the governments that are suppressing pro-Islam opposition, several massacres that have been perpetrated by non-Muslims against Muslims, invasion and occupation of Muslim nations, have all come hand in hand to drive organizations like Al-Qaeda and the Islamic State to the conclusion that Muslims are targeted because of their religion. For many Muslims, Islam is not only a religion but also a tradition, a social custom and a political thought because of the evolution that was introduced by the inception of Islam esp. in the Middle East. In other words, Islam is the foundation of their identity. The anti-Islam propaganda and targeting Islam rather than eliminating the root causes of militancy has further lent support to such a conclusion. This perception has an analogy to Islam's early stages when Muslims were targeted by a united non-Muslim coalition. As a result, the paradigm of Al-Qaeda and the Islamic State suggest a continuity of hostility towards Muslims.

The Islamic State was born in the wake of Western invasion of Iraq. not only as an ideological response in opposition but also for the purpose of driving out occupiers. The occupiers committed crimes against local people, labeled the freedom fighters as terrorist and built the greatest embassy of the planet in Baghdad, the former capital for glorious Caliphates of Islam. The embassy belongs to U.S. the greatest supporter of Israel at the expense of Palestinians. The balance of power in the region was tilted after the invasion. Iranians also intervened to make sure that U.S. is weakened enough to spare Iran. Today the reality on the ground testifies that the government that was established under the occupation was truly illegitimate. But then the protests were ignored and brushed off. Evolution of the political

climate in Iraq excommunicated the staunchest opponents of intervention and occupation. This was another testimony for the Mujahideen's paradigm. Time revealed that there's more grassroots support for the so-called "terrorists" than there's support for the established government. Sectarian war in the wake of Iranian intervention seemed inevitable. Opposition in Iraq was left to her own devices to tackle with the regime in Baghdad and her Iranian-Western allies. This definitely sealed the distinction between the Iraqi government and her allies on the one hand and the opposition-mainly Sunni- on the other hand. As a result, the Islamic State was declared to solidify the gains and hint that there's no turning back. Civil war in Syria was another success for the Mujahideen's paradigm especially in the light of the fact that the most welcome groups were again labeled "terrorist" and the most incompetent outfits were internationally recognized as the official opposition. The Islamic State was a domestic problem for Iraq and Syria. Her success on the ground and her ideology with its roots in the fabric of the society gained more popularity for the Islamic State and helped with her expansion. Wherever the Islamic state found offshoots, she was still a domestic problem.

As discussed in this paper, what made the Islamic State an international challenge is basically because of three reasons, all deriving from the Islamic State's statehood. First, the question of sovereignty. The Islamic State is a domestic issue and her success on the ground was not a threat to any state's sovereignty until she declared her statehood. The Islamic State was present in Iraq when U.S. force withdrew, but the declaration of statehood compelled U.S. and her allies to return.

Intervention in domestic affairs of those states that grappled with the Islamic State's emergence i.e. depriving people of their right to self-determination, consequently led the Islamic State to retaliate by targeting the intervening states in their own homes in the same manner. The second challenge derives from the Islamic State's attributes as a *de facto* state. The turn of events and the paradigm adopted by the Islamic State compels her to define only two

conflicting units for the international society of states namely, Ummah vs. Kuffar. The Islamic State's success on the ground means the extinction of local states who cannot last without foreign aid. The Islamic State rhetorically has not professed any intention to reconcile with all those states that have waged war on her. After all that has happened this doesn't seem extraordinary. In case the Islamic State is not nipped in the bud, the political map of the Middle East could change. Great access to human and energy resources and the expansion of the Islamic State on the one hand, and on the other hand restricted access to energy resources and corridors and wielding power in the region for the opponents of the Islamic State only means redistribution of capabilities, the units' disposition *vis-a-vis* one another and eventually alteration of current structure of international politics. It goes without saying that the Islamic State controlling the most oil-rich regions (e.g. Arabian Gulf littoral states) and energy corridors is a nightmare for her opponents. In case the Islamic State prevails, there seems to be no promotion for any unit in the structure but only deterioration of their capabilities. The international reaction to the Islamic State is a systemic one which normally wants to preserve the *status quo*. redistribution of capabilities would be followed by dramatic change in international institutions such as International law that has been monopolized by the predominant states to define the rules of engagement. Exclusive nature of the international law gives grounds to the Islamic State's insistence on the Sharia law that has acceptability in the Muslim world. Breaking the monopoly in the international laws is another systemic challenge, such as insistence on introducing Sharia law governs the international affairs of the Ummah, secession from the parent state and the extinction of the latter one.

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