HİTİT İLAHİYAT DERGİSİ
Hitit Theology Journal

e-ISSN: 2757-6949
Cilt | Volume 24 • Sayı | Number 2
Aralık | December 2025

Sacrificing Afghan Muslims for the Maṣlaḥa of American Muslims: The Story of a Post-9/11 Fatwā Issued for American Muslim Soldiers and Its Critiques

Amerikalı Müslümanların Maslahatı İçin Afgan Müslümanları Feda Etmek: 11 Eylül Sonrası Amerikalı Müslüman Askerler İçin Yayımlanan Bir Fetvanın Serencamı ve Eleştirileri

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Makale Bilgisi | Article Information

Makale Türü | Article Type: Araştırma Makalesi | Research Article
Geliş Tarihi | Received: 01.08.2025
Kabul Tarihi | Accepted: 17.11.2025
Yayın Tarihi | Published: 30.12.2025

Atıf | Cite As

Kütükcü, Tuğrul–Ceylan, Hadi Ensar. "Sacrificing Afghan Muslims for the Maṣlaḥa of American Muslims: The Story of a Post-9/11 Fatwā Issued for American Muslim Soldiers and Its Critiques". *Hitit İlahiyat Dergisi* 24/2 (2025), 564-609. https://doi.org/ 10.14395/hid.1755477

Yazar Katkı Oranları:
Araştırmanın Tasarımı: Yazar-1 (%95) - Yazar-2 (%5)
Veri Toplanması: Yazar-1 (%95) - Yazar-2 (%5)
Araştırma -Veri Analizi-Doğrulama: Yazar-1 (%95) - Yazar-2 (%5)
Makalenin Yazımı: Yazar-1 (%95) - Yazar-2 (%5)
Metnin Tashihi ve Geliştirilmesi: Yazar-1 (%90) - Yazar-2 (%10)
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Investigation-Analysis-Validation: Author-1 (%95) - Author-2 (%5)
Writing: Author-1 (%95) - Author-2 (%5)
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Conflicts of Interest: The authors have no conflict of interest to declare.
Grant Support: The authors acknowledge that they received no external funding to support this research.
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Sacrificing Afghan Muslims for the Maṣlaḥa of American Muslims: The Story of a Post-9/11 Fatwā Issued for American Muslim Soldiers and Its Critiques*

Abstract

This article examines the profound jurisprudential and ethical crisis that American Muslim soldiers faced following the 9/11 attacks, particularly in relation to their deployment in the war initiated by the United States against Afghanistan and its Muslim population. At the center of this crisis, which emerged amid a climate of heightened fear, suspicion, and Islamophobia in the U.S., lies a highly controversial collective *fatwā* issued by prominent Muslim scholars and intellectuals permitting American Muslim soldiers to participate in military operations against fellow Muslims. Positioned at the intersection of *fiqh*, nation-state authority, and identity politics, the *fatwā* serves as a revealing case study for exploring the tensions between religious loyalty and national allegiance in the modern era. While prior studies have addressed this collective *fatwā*, they tend to focus narrowly on the text itself and overlook broader historical, sociopolitical, and intellectual dimensions. In contrast, this article takes a holistic approach by situating the collective *fatwā* within the wider context of American Muslims' integration into the U.S. military, the first wave of post-9/11 *fatwā*s concerning Muslim soldiers, the background and motivations behind the *fatwā*, as well as subsequent retractions and the intense public and scholarly debates that followed it. Unlike earlier works, this study draws on a wide range of sources—including academic literature, television broadcasts, opinion columns, digital media, and live *fatwā* platforms—to offer a deeper and more multifaceted analysis of this pivotal moment in contemporary Islamic legal discourse.

Addressing the mounting anxiety among American Muslims in the post-9/11 era regarding the tensions between their religious and civic obligations, the article examines how legal concepts such as *maṣlaḥa* (public interest) and *ḍarūra* (necessity) were employed to justify participation in a war that entailed the killing of Muslims, analyzing the jurisprudential principles invoked to legitimize this usage and exploring how such reasoning fits within the broader framework of the Islamic legal tradition. The study reconstructs the decision-making process and rhetorical framing involved in issuing this *fatwā*. It also traces the backlash the *fatwā* generated—not only from U.S. military authorities, but also from a broad spectrum of Muslim voices, including *Wasaṭī*, *Salafī*, and Egyptian Islamist groups, as well as intellectuals, activists, and segments of the general Muslim public. These reactions reflected widespread discomfort with the *fatwā*'s perceived alignment with U.S. political objectives and its implications for the boundaries of Islamic authority, loyalty, and identity. Fundamentally, this article argues that the *fatwā* represents more than a legal ruling: it signifies a moment of moral rupture in the global Islamic discourse. By authorizing the sacrifice of Afghan Muslims on the grounds of *maṣlaḥa* and *ḍarūra* for American Muslims, the *fatwā* reveals the intersection of theological principles, political pragmatism, and conflicting loyalties. Building on this analysis, the article further contends that the *fatwā* exemplifies the subordination of religious loyalty to the imperatives of the modern nation-state, thus decisively reshaping transnational Muslim identity. In this light, the criticisms directed at the *fatwā* reflect a broader effort to reassess the relationship between modern Islamic thought and the nation-state. Consequently, the case vividly illustrates how the notion of the *ummah* has been surpassed and eroded in the face of the challenges posed by modernity, and how Muslim subjectivity has been reshaped within a nation-state-centered paradigm.

Keywords: Fiqh, September 11, American Muslim Soldier, Fatwā, Religious Loyalty, National Allegiance, Modern Islamic Legal Discourse.

Amerikalı Müslümanların Maslahatı İçin Afgan Müslümanları Feda Etmek: 11 Eylül Sonrası Amerikalı Müslüman Askerler İçin Yayımlanan Bir Fetvanın Serencamı ve Eleştirileri**

Öz

Bu makale, 11 Eylül saldırılarının ardından Amerikalı Müslüman askerlerin karşı karşıya kaldığı derin fıkhî ve ahlakî krizi, özellikle de Amerika Birleşik Devletleri'nin Afganistan ve Müslüman nüfusa karşı başlattığı savaşta görevlendirilmeleri bağlamında ele almaktadır. ABD'de artan korku, şüphe ve İslamofobi ikliminde ortaya çıkan bu krizin merkezinde, önde gelen Müslüman âlim ve entelektüeller tarafından yayımlanan ve Amerikalı Müslüman askerlerin Afgan Müslümanlara karşı yürütülen askerî operasyonlara katılmalarına cevaz veren oldukça tartışmalı kolektif bir fetva bulunmaktadır. Fıkıh, ulus-devlet otoritesi ve kimlik politikalarının kesişim noktasında

* The initial encounter with the *fatwā*, which is the primary subject of this article, occurred in Tuğrul Kütükcü's master's thesis, "Taha Câbir Alvânî'nin Fıkıh Anlayışı" (Taha Jābir Alwānī's Understanding of Fiqh), completed under the supervision of Dr. Hadi Ensar Ceylan. While the thesis briefly mentioned the text of the *fatwā* due to its connection with Alwānī, this article is a separate and independent study that expands upon that initial finding through original research.

** Bu makalenin temel konusunu oluşturan fetva, ilk defa Tuğrul Kütükcü'nün Dr. Hadi Ensar Ceylan danışmanlığında tamamladığı "Taha Câbir Alvânî'nin Fıkıh Anlayışı" başlıklı yüksek lisans tezinde kısaca ele alınmıştır. Söz konusu tezde, fetva metnine Alvânî ile olan bağlantısı dolayısıyla kısaca değinilmiş olmakla birlikte, bu makale tezde ortaya konan başlangıç düzeyindeki bu katkıyı özgün araştırmalar yoluyla genişleten, ondan bağımsız ve müstakil bir çalışma niteliği taşımaktadır.

konumlanan bu fetva, modern çağda dinî aidiyet ile ulusal bağlılık arasındaki gerilimi incelemek için aydınlatıcı bir vaka çalışması niteliğindedir. Bu kolektif fetvayı ele alan bazı akademik çalışmalar bulunsa da, mevcut çalışmaların çoğu fetva metninin kendisiyle sınırlı kalmakta ve fetvayı şekillendiren daha geniş tarihî, sosyo-politik ve entelektüel boyutları göz ardı etmektedir. Buna karşılık bu makale; Amerikalı Müslümanların ABD ordusuna entegrasyonu, 11 Eylül sonrası Müslüman askerlere ilişkin ilk fetva dalgası, kolektif fetvanın arka planı ve motivasyonu, fetvayı verenlerin daha sonraki açıklamaları ile görüş değişiklikleri ve bunun yol açtığı kapsamlı kamuoyu ve ilmî tartışmalar gibi unsurları detaylı biçimde inceleyerek, fetvayı daha geniş bir bağlam içinde konumlandıran bütüncül bir yaklaşım benimsemektedir. Önceki araştırmalardan farklı olarak bu çalışma, akademik literatürün yanı sıra televizyon yayınları, köşe yazıları, dijital medya ve canlı fetva platformları gibi çeşitli kaynaklardan yararlanarak, çağdaş fıkhî söylemdeki bu önemli anı daha incelikli ve çok boyutlu biçimde analiz etmektedir.

11 Eylül sonrasında Amerikalı Müslümanların hem dinî hem de vatandaşlık yükümlülükleri arasındaki gerilimlere ilişkin artan kaygıları inceleyen çalışma, fetva imzacılarının, Afganistan'daki Müslümanların öldürülmesini içeren askerî operasyonlara katılımı tecviz etmek için maslahat ve zaruret kavramlarını nasıl kullandığını, bu kullanımın hangi fıkıh kaideleriyle meşrulaştırıldığını ve bu durumun fıkıh geleneğinde nereye tekabül ettiğini detaylı biçimde tartışmaktadır. Fetvanın teşekkülünde kullanılan karar alma zincirini ve retorik stratejileri yeniden inşa eden makale, fetvanın yalnızca ABD askerî otoritelerinden değil, aynı zamanda Vasatî, Selefî ve Mısırlı İslamcı gruplar ile entelektüeller, aktivistler ve geniş Müslüman kamuoyunun farklı kesimlerinden gelen tepkilere nasıl yol açtığını da incelemektedir. Bu çeşitli tepkiler, fetvanın ABD'nin politik hedef ve çıkarlarıyla uyumlu olduğu algısı ve dinî otorite, sadakat ve kimlik sınırları üzerindeki etkileriyle ilgili daha geniş bir rahatsızlığı yansıtmaktadır. Esasında bu makale, fetvanın hukukî bir hükmün ötesinde, evrensel İslamî söylemde ahlakî bir kırılma anını temsil ettiğini savunmaktadır. Afgan Müslümanların Amerikalı Müslümanlar uğruna maslahat ve zaruret gerekçesiyle kurban edilmesine izin veren bu fetva; şer'î ilkeler, siyasi pragmatizm ve çatışan sadakatlerin kesişim noktasını gözler önüne sermektedir. Buna dayanarak makale, bu fetvanın dinî aidiyeti modern ulus-devletin gereklerine tabi kılan bir örnek olduğunu ve böylece ulus-ötesi Müslüman kimliğini keskin bir şekilde yeniden biçimlendirdiğini savunmaktadır. Bu bağlamda, fetvaya yöneltilen eleştiriler, modern İslam düşüncesi ile ulus-devlet arasındaki ilişkiyi yeniden değerlendirmek için yapılan daha geniş bir çabayı yansıtmaktadır. Sonuç olarak bu vakıa, modernitenin getirdiği meydan okumalar karşısında "ümmet" tasavvurunun nasıl aşındığını ve aşıldığını, Müslüman öznelliğinin ulus-devlet merkezli bir paradigmada nasıl yeniden şekillendiğini çarpıcı bir biçimde göstermektedir.

Anahtar Kelimeler: Fıkıh, 11 Eylül, Amerikalı Müslüman Askerler, Fetva, Dinî Aidiyet, Ulusal Bağlılık, Modern Fıkhî Söylem

Introduction

The modern nation-state has positioned itself not merely as a political structure but as the ultimate source of belonging and meaning.[1] Within this framework, the individual is expected to direct their loyalty primarily—and often exclusively—to the state. The preservation of the state, the maintenance of social order, and the assurance of national security have been elevated to sacred duties, demanding the utmost sacrifice from citizens. In this context, the nation-state redefines traditional religious concepts such as martyrdom and sacrifice by appropriating them within a secular discourse, thereby constructing an ideological narrative that reproduces deep-rooted beliefs about death to legitimize violence for its survival.[2]

In this light, the September 11, 2001 attacks stand as a pivotal moment for understanding how the modern nation-state reasserts and reinforces its legitimacy. Following the attacks, the U.S. administration persuaded the public that the state's very existence was under grave threat, constructing imagined enemies and manufacturing an expansive zone of threat encompassing the entire Muslim world. President George W. Bush's reference to a "crusade against terror" framed the U.S. government's response to the attacks not only as a military operation but also

[1] Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (New York: Columbia University Press, 2013), 105-106.

[2] For a recent study on this subject, see. Lucien van Liere, "Dying for What? Secular Transformations of Martyrdom", *Religions* 15/1334 (2024), 1-21. This is fully consistent with Schmitt's observation that "All significant concepts of the modern theory of the state are secularized theological concepts." Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago and London: The University of Chicago Press, 1985), 36.

as an ideological, cultural, and civil-religious[3] mobilization of the modern nation-state. This response evolved into a global struggle for existence under the pretext of protecting American borders and values.

Throughout this discursive and military mobilization, the U.S. government did not merely define external enemies but also reconfigured internal loyalties through a deliberate strategy of division. The absolutist stance, encapsulated in the phrase "You're either with us or with the terrorists," generated a binary discourse that compelled citizens to choose sides, eliminating any space for moral or conscientious questioning. In this environment, American Muslim citizens were subjected to both growing social pressure and a demand for absolute loyalty from the state—a demand that stood in potential conflict with their religious beliefs. Among those most acutely affected were Muslim soldiers, who became direct agents of the war.

For these soldiers, caught between the dictates of their faith and the obligations of citizenship, war was not only a physical battleground but also a site of intense moral, psychological, and legal conflict. On one side stood the values of their faith; on the other, the military allegiance demanded by the state—producing profound ethical and jurisprudential crises. At the core of this dilemma lies the question: under which conditions may a Muslim serve in a non-Muslim army and engage in combat against fellow Muslims? This inquiry goes beyond traditional jurisprudence and offers insights into the modern relationship between Muslim identity and the nation-state.

The jurisprudential dilemmas faced by Muslim soldiers in the U.S. military were addressed primarily through *fatwā*s, which constitute the most prominent and dynamic expression of Islamic legal activity in the modern era. In non-Muslim majority contexts, *fatwā*s function both as personal religious guidance and as a form of "unofficial law," shaping the social practices of Muslim communities. Though not recognized by the state, *fatwā*s nonetheless carry normative authority within these communities and provide guidance in cases of conflict between religious obligations and secular law.[4] Therefore, the *fatwās* issued for Muslim soldiers in the U.S. offered more than mere theoretical legal opinions; they provided practical frameworks for navigating conflicts between religious conviction and state authority. In matters such as warfare—laden with deep religious and moral implications—these *fatwās* functioned as key reference points for Muslim soldiers seeking to comply, resist, or find a balance between the two systems.

Although numerous *fatwās* were issued globally in response to the situation of Muslim soldiers after 9/11, none received as much attention or debate as the collective *fatwā* issued by Yūsuf al-Qaraḍāwī and his colleagues for ʿAbd al-Rashīd Muhammad, the most senior Muslim chaplain in the U.S. military.[5] This *fatwā* remained at the center of discussions for months—even years—and opened up a significant discursive arena. While valuable academic work has addressed this *fatwā*, existing studies tend to focus solely on its textual content and suffer from notable gaps and inaccuracies.[6] Unlike previous works, this article offers a comprehensive analysis that

[3] Bellah's insights are particularly important in this context. See. Robert N. Bellah, "Civil Religion in America", *Daedalus* 96/1 (1967), 1-21.
[4] Ann Black et al., *Modern Perspectives on Islamic Law* (Cheltenham: Edward Elgar Publishing, 2013), 96.
[5] Throughout this article, the terms "collective *fatwā*" and "*fatwā*" are used interchangeably.
[6] One of the earliest scholars to address this collective *fatwā* in an academic context was William Baker, who introduced the *fatwā* text and offered a brief set of observations: Raymond William Baker, *Islam Without Fear: Egypt and the New Islamists* (Cambridge, MA: Harvard University Press, 2003), 252-255. While Basheer Nafi authored the first dedicated study and offers valuable insights, his analysis has limitations. It often diverges into tangential historical references, omits the *fatwā*'s

includes the process of Muslim integration into the U.S. military, early *fatwā*s issued after 9/11 for American Muslim soldiers, the context and motivations behind the collective *fatwā*, its subsequent revisions, and the broader debates that emerged around it. In examining the *fatwā*, the study draws not only on books and academic articles but also on television broadcasts, opinion columns, news websites, and live *fatwā* platforms.

By tracing the trajectory of a collective *fatwā* during a time of crisis, this paper seeks to reveal how jurists and intellectuals grappled with one of the most complex dilemmas between religious loyalty and patriotic duty—namely, whether it is permissible for Muslims to fight fellow Muslims in a non-Muslim army. Moreover, through the debates sparked by this issue, the article sheds light on how religious loyalty and national allegiance are positioned within the tensions of the modern nation-state. Finally, the article examines how this case illustrates broader transformations in Islamic legal authority, including the shifting grounds of the *ulamā*'s legitimacy and the evolving function of the *fatwā* as a dynamic instrument for negotiating moral agency and social integration in the modern period.

1. From Resistance to Loyalty: Muslim Soldiers in the U.S. Army

Although Muslims have served in the United States military since its early years, their religious identity was not formally acknowledged for much of U.S. military history. Unlike Christian and Jewish soldiers, Muslim servicemen had no recognized religious designation; dog tags either listed no affiliation or defaulted to the letter "P," designating Protestantism. It was only in 1952—following requests from Muslim soldiers—that the military began permitting the inscription of the letter "I" for Islam on dog tags, thereby formally recognizing Islam as a legitimate religious identity within the armed forces.[7]

Nevertheless, American Muslim soldiers have not always aligned with U.S. military policy. A key example is the Nation of Islam (NOI), composed primarily of African Americans, which emerged as a vocal critic of U.S. war efforts. The group notably refused to participate in World War II and the Korean War and had significant confrontations with the government during the Vietnam War. Arguing that Black Americans faced systemic racism and were the first to be sacrificed in wars, members of the NOI—including Muhammad Ali—refused to serve in the Vietnam War, leading to the imprisonment of more than 100 adherents. After the death of NOI leader Elijah Muhammad in 1975, his son and successor, W.D. Muhammad, dramatically reoriented the group. Moving away from state opposition, he promoted a more nationalist, patriotic, and cooperative stance toward the U.S. government. Although compulsory military service ended in the United States in 1973, Muhammad encouraged his followers to volunteer for military service, even strongly supporting the U.S. during the Gulf War.[8]

background and development process, and engages only with Salafī scholar Ṣalāḥ al-Ṣāwī's critique, neglecting *Wasaṭī* and other criticism. Basheer Nafi, "*Fatwā* and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", *Islamic Law and Society* 11/1 (2004), 78-116. While the studies by Harvey Stark and Uriya Shavit largely follow Nafi's work, they do include some responses from *Wasaṭī* scholars. However, their analysis relies primarily on a *fatwā* posted on IslamOnline on October 16, which—as discussed below—results in several misinterpretations. Harvey Stark, "Religious Citizens After September 11th: The Impact of Politics on the Jurisprudence Concerning Muslim American Military Service", *The Muslim World* 101/3 (2011), 484-493; Uriya Shavit, *Shari'a and Muslim Minorities: The Wasaṭī and Salafī Approaches to Fiqh al-Aqalliyyat al-Muslima* (Oxford: Oxford University Press, 2015), 229-233. Critiques of these works will be addressed in the following sections.

[7] Shareda Hosein, "Muslims in the U.S. Military: Moral Injury and Eroding Rights", *Pastoral Psychology* 68 (2019), 79.

[8] Clinton Bennett, "United States Military", *Encyclopedia of Muslim-American History*, ed. Edward E. Curtis IV (New York: Facts On File, 2010), 562-563; Bret Lewis, "Vietnam War", *Encyclopedia of Muslim-American History*, ed. Edward E. Curtis IV (New York: Facts On File, 2010), 567-568; Harvey Ronald Stark, *Looking for Leadership: Discovering American Islam in the Muslim*

In addition to acknowledging the challenges faced by Muslim soldiers during the Gulf War,[9] the U.S. military also observed the NOI's rising influence and endorsement of U.S. war policy—developments that ultimately led to the appointment of the first Muslim chaplain in 1993. That chaplain was ʿAbd al-Rashīd Muhammad, an alumnus of the Graduate School of Islamic and Social Sciences (GSISS)—founded by Ṭāhā Jābir ʿAlwānī and the sole institution authorized to train Muslim chaplains.[10] Shortly after his appointment, ʿAbd al-Rashīd gave an interview in which he was asked about U.S. military interventions in Muslim countries. He responded by stating that they were soldiers, not politicians, and that obedience to orders was a requirement in the military system. He also added that he prayed to God every day not to be placed in a situation where he would have to confront fellow Muslims[11]—a fear that would materialize just seven years later in the aftermath of 9/11.

2. The Great Fracture: 9/11 and the Initial Responses

The September 11, 2001 attacks stand as one of the most defining events of the twenty-first century. With initial accusations linking the perpetrators to *al-Qāʿida* and President George W. Bush's declaration of a new "crusade," it became clear that American Muslims were entering a deeply precarious period. In the immediate aftermath, hate crimes against Muslims in the U.S. increased by 1,700 percent.[12] Even Muslim women began requesting *fatwā*s on whether it was permissible to remove their *ḥijāb*s to protect themselves from harassment in public spaces.[13]

Islamic scholars and organizations responded swiftly, sparking wide-ranging debates.[14] On the day after the attacks, ʿAlwānī declared that American Muslims unequivocally condemned the violence and, as both a Muslim and an American, he regarded the act as entirely illegitimate.[15] However, as time passed, he began to express doubts regarding who was actually behind the attacks. In an article published on September 22, he hinted that Israel might have been involved in orchestrating the operation, suggesting that the attack was being used to deliberately align U.S. and Israeli security interests—possibly as part of a premeditated political narrative.[16]

Similarly, on the day after the attacks, al-Qaraḍāwī also condemned the attacks but sharply criticized U.S. policies and its support for Israel. Nevertheless, he stated that such injustices could not justify killing civilians. Recalling the 1995 Oklahoma bombing, he argued that Muslims or any Muslim nation should not be held responsible for what had occurred. He also emphasized that his *fatwā* regarding martyrdom operations (*istishhād*) in Palestine was not applicable to

Chaplaincy (Princeton University, Ph.D. Dissertation, 2015), 179-180, 233-240; Edward E. Curtis IV, *Muslim Americans in the Military: Centuries of Service* (Bloomington: Indiana University Press, 2016), 33-51.

[9] Mariam Fam, "Doc Spotlights Muslim Chaplains in U.S. Military", *The Columbian* (2 December 2023). It has been reported that approximately five thousand American soldiers who participated in the Gulf War and were stationed in Saudi Arabia converted to Islam. See. Laurie Goodstein, "For Muslims in the Military, A Chaplain of Their Own", *The Washington Post* (3 December 1993).

[10] Karen Leonard, "Organizing Communities: Institutions, Networks, Groups", *The Cambridge Companion to American Islam*, ed. Juliane Hammer-Omid Safi (Cambridge: Cambridge University Press, 2013), 179-180; Bennett, "United States Military", 563. Notably, a letter of congratulations and prayers from W.D. Muhammad was read at ʿAbd al-Rashīd's inauguration ceremony. See. NAICC, "Official Swearing-In Ceremony of the First Islamic Chaplain in the United States Military", (12 March 1993), min. 19:13-21:10.

[11] "Terror In America (23) Muslim Soldiers In the U.S. Armed Forces In Afghanistan: To Fight Or Not To Fight?", *Memri* (7 November 2001).

[12] Edward E. Curtis IV, *Muslims in America: A Short History* (Oxford: Oxford University Press, 2009), 100.

[13] See, for example: Muḥammad ʿImārah, "Ruʾya Sharʿiyya Ḥawla al-Ḥarb al-Qādimah", *IslamOnline* (17 September 2001); Muḥammad al-Ḥānūtī, "Fatwā Session on Latest Tragic Events", *IslamOnline* (20 September 2001).

[14] For the reactions of Islamic circles to September 11, see. Charles Kurzman, "Islamic Statements Against Terrorism" (Accessed 22 July 2025).

[15] "U.S. Muslim Scholars Condemn Attacks", *IslamOnline* (12 September 2001).

[16] "Terror In America (23) Muslim Soldiers In the U.S. Armed Forces In Afghanistan: To Fight Or Not To Fight?" (7 November 2001).

this case.[17] On September 16, during his appearance on al-Jazeera's *al-Sharīʿa wa-l-Ḥayāt* (*Sharīʿa* and Life), al-Qaraḍāwī described the U.S. as a corrupting force across the world. He rejected the accusations against Osama bin Laden and *al-Qāʿida* as hasty and unsupported, stating that if their guilt were definitively proven, they should be tried in a neutral Islamic court. He argued that Muslims, if capable, should fight the United States militarily; if not, they must wage a struggle through political and economic means.[18] In his Friday sermon on September 21, al-Qaraḍāwī accused the U.S. of declaring itself untouchable and all-powerful, assuming a godlike posture, and asserted that the 9/11 attacks had shattered that illusion. He stated that instead of drawing a lesson and exercising caution, the U.S. had squandered that opportunity and launched a crusade against Muslims. He further criticized the arbitrary use of the term "terrorism" by the United States and reiterated that any cooperation with a war against Afghanistan was forbidden.[19]

On September 26, Muḥammad Salīm al-ʿAwwā condemned the U.S. for announcing its targets and launching military operations before any investigation had concluded, calling this approach both unlawful and aggressive. He argued that Osama bin Laden should be tried by a neutral court—with Saudi Arabia being the only state legally qualified to hand him over—and cited the Lockerbie case and the trials of Serbian leaders for crimes against humanity as relevant precedents. He rejected the U.S.'s unsubstantiated accusations and its broader deployment of anti-terror discourse to justify violence. He also criticized Muslim states for severing diplomatic ties with the Taliban under U.S. pressure and stressed that Muslims should avoid adopting a hostile stance toward them.[20]

3. Early Fatwās Issued to Muslim Soldiers After 9/11

Following the 9/11 attacks, *IslamOnline* emerged as a major platform facilitating dynamic religious discourse among Muslims worldwide.[21] By offering live *fatwā* sessions and live dialogue in Arabic and English, it acted as a bridge between the general public and religious scholars, and became a hub for addressing legal and ethical dilemmas—particularly regarding the participation of American Muslim soldiers in the war against Afghanistan.

On September 26, the first *fatwā* on the matter came from Aḥmad al-Raysūnī, in response to a question posed by a Muslim soldier in the U.S. military. The soldier asked whether, if deployed, he should fight alongside the U.S. Army or defect to the Afghan side. al-Raysūnī unequivocally ruled that fighting Muslims was impermissible under any circumstances. He expressed hope that the U.S. would avoid deploying Muslim troops to Afghanistan, but stated that, if ordered to go, Muslims should refuse deployment and submit an official request for exemption.[22]

On October 3, Fayṣal Mawlawī, another prominent voice, issued a *fatwā* addressing the dilemmas faced by Muslim soldiers, emphasizing the tension between national laws and Islamic principles. He ruled that it was obligatory for Muslim soldiers, if they were able to do so, to seek

[17] Yūsuf al-Qaraḍāwī, "Islamic View on the Latest Attacks on America", *IslamOnline* (12 September 2001).
[18] al-Sharīʿa wa-l-Ḥayāt, "al-Irhāb wa-Ḥamalāt al-Karāhiyyah Ḍidd al-ʿArab wa-al-Muslimīn", ed. Māhir ʿAbd Allāh, *al-Jazeera* (16 September 2001).
[19] Yūsuf al-Qaraḍāwī, "Man al-Masʾūl ʿan Aḥdāth al-Ḥādī ʿAshar min Sibtimbir?", *Khuṭab al-Shaykh al-Qaraḍāwī*, ed. Khālid al-Saʿd, vol. 6 (Cairo: Maktabat Wahba, 2004), 82-95. He expressed similar criticisms two days later. See. al-Sharīʿa wa-l-Ḥayāt, "al-Muslimūn Ḍaḥāyā am Muʿtadūn fī Ḥawādith al-Irhāb?", ed. Māhir ʿAbd Allāh, *al-Jazeera* (23 September 2001).
[20] Muḥammad Salīm al-ʿAwwā, "Muslims' Conduct in the Expected War", *IslamOnline* (26 September 2001).
[21] For more on IslamOnline, see. Bettina Gräf, "IslamOnline.Net: Independent, Interactive, Popular", *Arab Media & Society* (2009).
[22] Aḥmad al-Raysūnī, "Sīnārīū al-Ḥarb wa-Sulūk al-Muslim", *IslamOnline* (26 September 2001).

non-combat roles as conscientious objectors and noted that U.S. military law generally permits such reassignment. However, if reassignment were impossible, Mawlawī argued, the soldier would face a grave personal decision, for which he would be religiously liable. Mawlawī stopped short of issuing a definitive ruling for this specific situation, instead placing the burden on individual conscience.[23]

Mawlawī was swiftly criticized for his *fatwā*—just a day later, on October 4. Responding to a questioner who warned that American and Afghan Muslims were becoming instruments in mutual destruction, he expanded on his earlier view. According to him, neither prioritizing religious loyalty over national allegiance to the point of self-sacrifice, nor the reverse—killing a fellow Muslim for patriotic duty—should be demanded of a Muslim soldier. As the harm in both scenarios was nearly equivalent, he argued that such cases should be left to individual judgment, based on personal circumstances and faith. In response to a sharper question—whether an American Muslim soldier who kills an Afghan Muslim would be condemned to Hell—Mawlawī referred to conflicts among the *ṣaḥāba* and distinguished between unjustified killing and that based on interpretive justification (*taʾwīl*), stating that the latter is left to God's final judgment. Still, he emphasized that outside of strict necessity, killing a fellow Muslim is impermissible, and even in confrontation, one must not intend harm.[24] Thus, his ambiguous and noncommittal tone, along with his refusal to issue a definitive ruling, appears intended to deflect potential future criticism.

On October 9, Aḥmad Nawfal, professor of *Sharīʿa* at the University of Jordan, stated in his *fatwā* that American Muslims must not serve in the U.S. military because they could be forced to work against the interests of fellow Muslims and warned that—even under threat of punishment—a Muslim should not participate in a war against other Muslims. If forced into combat, soldiers must refuse orders to kill, as "a Muslim's true nationality is his religion."[25] On October 10, Jamāl Badawī was asked for a direct and well-substantiated answer to the same dilemma. He declined to provide a ruling, stating that the Fiqh Council of North America (FCNA) would soon release a collective *fatwā* issued by al-Qaraḍāwī and his colleagues.[26] None of the previously mentioned *fatwā*s generated as much attention or controversy as the one cited by Badawī. From that point on, public discourse—ranging from television programs and columns to books and academic articles—began to revolve around this collective *fatwā* as the focal point of the debate.

4. The Background of the Collective Fatwā

The U.S. government's focus on *al-Qāʿida* and Afghanistan in relation to 9/11 became official with President George W. Bush's address to Congress on September 20. His ultimatum to the Taliban to hand over Osama bin Laden and his declaration of a "war on terror" signaled the near inevitability of military intervention. Unsurprisingly, the prospect of war caused serious concern among Muslim soldiers. Though the number of Muslim soldiers was officially estimated at around 4,000, some reports suggested that it may have reached 15,000.[27] A significant number of Muslim soldiers, subjected to verbal harassment by their non-Muslim comrades in the aftermath

[23] Fayṣal Mawlawī, "Fatāwā al-Ḥarb al-Amrīkiyya", *IslamOnline* (3 October 2001).
[24] Fayṣal Mawlawī, "Fatāwā al-Ḥarb al-Amrīkiyya", *IslamOnline* (4 October 2001).
[25] Aḥmad Nawfal, "Fatāwā al-Ḥarb wa-Ḥamlāt al-Irhāb", *IslamOnline* (9 October 2001).
[26] Jamāl Badawī, "Muslim and Non-Muslim Relations: Plurality and Jihad", *IslamOnline* (10 October 2001).
[27] This figure is based on the information provided by ʿAbd al-Rashīd in the question section of the collective *fatwā* to be examined below.

of 9/11,[28] felt profound moral discomfort about going to Afghanistan and fighting against Muslims. These concerns were shared with the fourteen Muslim chaplains then serving.

For instance, Chaplain James Yee reassured concerned Muslim soldiers by emphasizing that Islam strictly prohibits the killing of civilians, regards such acts as terrorism, and upholds the need to bring perpetrators to justice—thereby encouraging them to proceed with deployment to Afghanistan. However, as more Muslim soldiers considered filing for conscientious objection, a more structured religious response became necessary. Chaplain ʿAbd al-Rashīd sought formal religious guidance—turning to ʿAlwānī, his religious endorser and longtime mentor.[29]

ʿAlwānī, who was responsible for overseeing the training and endorsement of military chaplains,[30] recognized the gravity of the issue and consulted the FCNA. The Council first reviewed past *fatwā*s issued during the Gulf War, collecting fifty rulings—thirty permitting participation and twenty forbidding it.[31] Similarly, scholars had been divided during the Iran-Iraq War. Given the global scope and religious sensitivity of the issue, the Council refrained from issuing an independent ruling. Instead, ʿAbd al-Rashīd's question and an accompanying letter from ʿAlwānī were translated into multiple languages and circulated to leading scholars and *fatwā* councils throughout the Muslim world.[32]

Among the scholars from whom ʿAlwānī requested a *fatwā* was al-ʿAwwā. In response, al-ʿAwwā consulted with Ṭāriq al-Bishrī, Fahmī Huwaidī, and Haytham al-Khayyāṭ.[33] Based on these consultations, he drafted a preliminary version of the *fatwā* and sent it to al-Qaraḍāwī. al-Qaraḍāwī generally approved of the draft and, without altering its core substance, made stylistic and linguistic refinements before signing it.[34] al-ʿAwwā then forwarded the finalized *fatwā* to ʿAlwānī. In this context, ʿAlwānī explained that whenever they receive a *fatwā* from abroad—this one included—they adopt one of three approaches: "We either accept it as is and support it with evidence and reasoning, because the Western mind does not accept anything without justification; or we revise it if new perspectives clarify the issue; or we treat it as a reference without fully or partially adopting it."[35] While ʿAlwānī acknowledged that they did not adopt this *fatwā* verbatim and made certain modifications,[36] he did not specify which of the first two

[28] James Yee, *For God and Country: Faith and Patriotism under Fire* (New York: PublicAffairs, 2005), 39, 84; "al-Jaysh al-Amīrkī Yazīd min Ihtimāmihi bi-Junūdihi al-Muslimīn", *al-Sharq al-Awsaṭ* (2 October 2001).

[29] Caryle Murphy, "Islamic Scholars Say U.S. Muslim Soldiers Must Fight for Country", *Washington Post* (10 October 2001); Phillip Kurata, "U.S. Islamic Leaders Issue *Fatwā* on U.S. Muslim Soldiers Fighting Terrorists", *US Info* (16 October 2001); Mike Barber, "Muslims in the U.S. Military Are as Loyal as Any, Chaplain Says", *Seattle Post-Intelligencer* (19 October 2001); ʿAbd al-Rashīd Muhammad, "Serving Country, Serving Allah" (Interviewer: Krista Tippett, Audio Recording 26 May 2005).

[30] Starting in 1996, the U.S. Department of Defense, in cooperation with GSISS led by ʿAlwānī, launched a training program for Muslim chaplains. See. Alan Verskin, *Oppressed in the Land? Fatwās on Muslims Living under Non-Muslim Rule from the Middle Ages to the Present* (Princeton: Markus Wiener Publishers, 2013), 134.

[31] For the *fatwās* issued during the Gulf War, see. Yvonne Yazbeck Haddad, "Operation Desert Storm and the War of *Fatwā*s", *Islamic Legal Interpretation: Muftis and Their Fatwās*, ed. Muhammad Khaled Masud et al. (London: Harvard University Press, 1996), 297-309.

[32] "Fatwā min al-Qaraḍāwī wa-al-ʿAwwā wa-al-Bishrī wa-Ākharīn Tujīz lil-ʿAskariyyīn al-Amrīkiyyīn al-Muslimīn al-Mushāraka fī al-Ghārāt ʿalā Afghānistān", *al-Sharq al-Awsaṭ* (14 October 2001); al-Sharīʿa wa-l-Ḥayāt, "al-Mawāqif al-ʿArabiyya wa-al-Islāmiyya min al-Ḥarb Ḍidd Afghānistān", ed. Māhir ʿAbd Allāh, *al-Jazeera* (20 October 2001); Ṭāhā Jābir ʿAlwānī, "al-Baghī wa-al-Irjāf", *alwani.org* (Accessed 12 June 2025).

[33] "Fatwā min al-Qaraḍāwī wa-al-ʿAwwā wa-al-Bishrī wa-Ākharīn Tujīz lil-ʿAskariyyīn al-Amrīkiyyīn al-Muslimīn al-Mushāraka fī al-Ghārāt ʿalā Afghānistān" (14 October 2001); al-Sharīʿa wa-l-Ḥayāt, "al-Mawāqif al-ʿArabiyya wa-al-Islāmiyya min al-Ḥarb Ḍidd Afghānistān"; "Terror In America (23) Muslim Soldiers In the U.S. Armed Forces In Afghanistan: To Fight Or Not To Fight?" (7 November 2001); Nafi, "*Fatwā* and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 78-80.

[34] Yūsuf al-Qaraḍāwī, *al-Fatāwā al-Shādhdha* (Cairo: Dār al-Shurūq, 2010), 125.

[35] "Fatwā min al-Qaraḍāwī wa-al-ʿAwwā wa-al-Bishrī wa-Ākharīn Tujīz lil-ʿAskariyyīn al-Amrīkiyyīn al-Muslimīn al-Mushāraka fī al-Ghārāt ʿalā Afghānistān" (14 October 2001).

[36] al-Sharīʿa wa-l-Ḥayāt, "al-Mawāqif al-ʿArabiyya wa-al-Islāmiyya min al-Ḥarb Ḍidd Afghānistān".

approaches their revisions ultimately belonged to. Some scholars declined to respond to the question altogether, while others sent detailed *fatwā*s. On September 27, 2001, ʿAlwānī signed the amended version of the *fatwā* prepared by al-ʿAwwā and his colleagues, arranged for its translation into English, and thereafter delivered it—along with the other *fatwā*s—to ʿAbd al-Rashīd.[37]

Fully aware of the sensitivity of the matter, ʿAlwānī took deliberate steps to prevent the issue from reaching Arab or Western media. He insisted that the discussion remain confined to himself and ʿAbd al-Rashīd. However, the collective *fatwā* "began circulating in the media, shared by well-intentioned Muslims seeking to counter the rising tide of Islamophobia in the West, where Muslims were indiscriminately portrayed as extremists."[38] The first public disclosure came on October 8, 2001, when one of the signatories, Huwaidī, published the *fatwā* in *al-Sharq al-Awsaṭ* without ʿAlwānī's signature; nevertheless, he provided a detailed account of ʿAlwānī's role in the process.[39] It was the first indication that ʿAlwānī and his colleagues were about to face significant challenges.

Alongside the *fatwā*, Huwaidī provided commentary, noting that Muslims in the West had been preoccupied with everyday issues and had seldom considered the prospect of being compelled to fight other Muslims. Consequently, the topic had not been thoroughly debated. During the Gulf War, he noted, the issue had not gained significant traction, as the number of Muslim soldiers in the U.S. military was relatively small and the war was framed as liberating a Muslim country from occupation. However, as the number of Muslim soldiers steadily increased, the issue acquired renewed prominence after 9/11. Huwaidī also highlighted conscientious objection as a possible solution, suggesting that Muslim soldiers could opt for non-combat roles such as providing medical or logistical support.[40]

Following Huwaidī's column, the *fatwā* entered the public sphere and was quickly picked up by both Arab[41] and Western media[42]—precisely the outcome ʿAlwānī had sought to avoid. It sparked intense debate and became a central topic in Muslim discourse. It appears that ʿAlwānī, caught in the momentum of the controversy, could remain silent for only four more days. On October 12, 2001, he held a press conference at the FCNA with Muḥammad al-Ḥānūtī. While acknowledging other scholarly opinions, ʿAlwānī stated that he had chosen to formally adopt and publicly announce the collective *fatwā* issued by what he described later as "a group of qualified and upright scholars who understood the history and reality of the *ummah*, the scriptural sources, the universality of Islam, and the future of Muslim presence and engagement in the West." [43] He argued that the *fatwā* by al-ʿAwwā and his colleagues was the most appropriate, "as it was rooted in evidence and reasoning, grounded in the Islamic legal sources,

[37] "Fatwā min al-Qaraḍāwī wa-al-ʿAwwā wa-al-Bishrī wa-Ākharīn Tujīz lil-ʿAskariyyīn al-Amrīkiyyīn al-Muslimīn al-Mushāraka fī al-Ghārāt ʿalā Afghānistān" (14 October 2001).
[38] ʿAlwānī, "al-Baghī wa-al-Irjāf".
[39] Fahmī Huwaidī, "Mawqif al-ʿAskariyyīn al-Muslimīn fī al-Jaysh al-Amrīkī", *al-Sharq al-Awsaṭ* (8 October 2001).
[40] Huwaidī's article was also published in the October 12 issue of *al-Shaʿb* newspaper, where he had long served as a columnist. While the newspaper expressed respect for Huwaidī, it added a footnote making clear that it did not endorse the collective *fatwā* and encouraging readers to consult other *fatwā*s that opposed it. See. Fahmī Huwaidī, "Mawqif al-ʿAskariyyīn al-Muslimīn fī al-Jaysh al-Amrīkī", *al-Shaʿb* (12 October 2001).
[41] See, for example: Basheer Nafi, "Fatwā Hāmmah Tuʾashshir ilā Taḥawwul Jawharī fī al-Fikr al-Siyāsī al-Islāmī", *al-Quds al-ʿArabī* (11 October 2001), 19.
[42] See, for example: Murphy, "Islamic Scholars Say U.S. Muslim Soldiers Must Fight for Country", *Washington Post* (10 October 2001); Laurie Goodstein, "A Nation Challenged: The Religious Opinion; Muslim Scholars Back Fight Against Terrorists", *The New York Times* (12 October 2001); Kurata, "U.S. Islamic Leaders Issue *Fatwā* on U.S. Muslim Soldiers Fighting Terrorists", *US Info* (16 October 2001).
[43] ʿAlwānī, "al-Baghī wa-al-Irjāf".

attentive to *maṣlaḥa* (public interest), and based on the principle of choosing the lesser of two harms." [44]

5. The Fatwā[45]

"In the Name of God, the Most Compassionate, the Most Merciful

This response is issued in reply to the request for a *fatwā* submitted by Mr. Muhammad ʿAbd al-Rashīd, the most senior Muslim chaplain in the U.S. military, regarding the religious permissibility of Muslim soldiers participating in military operations—and whatever else it may require—in Afghanistan and other Muslim regions under the command of the United States military.

In his inquiry, ʿAbd al-Rashīd outlines the stated objectives of these operations as follows:

1) The retaliation against those "presumed to have been involved" in planning and financing the suicide attacks of September 11, which targeted both civilian and military locations in New York and Washington (the questioner provides additional details regarding the nature of these attacks).

2) The elimination of elements who have taken refuge in Afghanistan or similar regions, and the deterrence of governments that offer such individuals shelter, support, or opportunities for military training aimed at pursuing their objectives globally.

3) The restoration of the United States' prestige and authority as the world's sole superpower.

ʿAbd al-Rashīd concludes his query by noting that the number of Muslim soldiers in the U.S. armed forces (Army, Navy, and Air Force) is at least fifteen thousand. He adds that, if they do not agree to participate in the aforementioned combat operations, the only options available to them under the present circumstances may be resignation and the like. He finally asks: "Is it religiously permissible for those who are able to request reassignment to non-combat duties?"

Response:

Praise be to God, and blessings and peace be upon the Messenger of God.

This inquiry raises an exceptionally complex and sensitive issue faced by our Muslim brothers serving in the U.S. military and in other armed forces where similar circumstances may arise.

It is incumbent (*wājib*) upon all Muslims to stand united against those who terrorize civilians and who deem it lawful to shed the blood of non-combatants without legitimate cause. Islam categorically prohibits the violation of life and property until the Day of Judgment. As the *Qur'ān* states:

"Because of that, We decreed upon the Children of Israel that whoever kills a soul not in retaliation for a soul or for corruption [done] in the land, it is as if he had slain all of humanity. And whoever saves one, it is as if he had saved all of humanity. Certainly, Our messengers came to them with clear proofs. Yet even after that, many of them continued to commit excesses in the land."[46]

[44] "Fatwā min al-Qaraḍāwī wa-al-ʿAwwā wa-al-Bishrī wa-Ākharīn Tujīz lil-ʿAskariyyīn al-Amrīkiyyīn al-Muslimīn al-Mushāraka fī al-Ghārāt ʿalā Afghānistān" (14 October 2001).

[45] Although the *fatwā* had previously been translated into English by Sami al-Arian and published by Nafi, we retranslated it due to certain shortcomings we observed in that version. For the original copy of the *fatwā*, see the Appendix.

[46] Ṣaḥeeḥ International, The Qur'ān - English Meanings (Jeddah: al-Munteda al-Islami, 2004), al-Māʾida 5/32.

Whoever acts in contradiction to these unequivocal Islamic texts is deemed culpable and deserves a punishment proportionate to the nature of their transgression and the degree of harm it causes.

Our Muslim brothers in the U.S. military are religiously obligated to make their principled stance—and the Islamic legal grounds underpinning it—clear and known to their colleagues and superiors. They must not remain silent but rather speak openly. Doing so constitutes an important form of conveying the true teachings of Islam, which have long been distorted or misrepresented by various media outlets.

Had the terrorist attacks that occurred in the United States been addressed in accordance with the textual injunctions of the *Sharīʿa* and the principles of Islamic jurisprudence, they would have fallen under the legal category of *ḥirāba*, as described in the *Qur'ān*:

"Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off on opposite sides or that they be exiled from the land. That is their disgrace in this world, and for them in the Hereafter is a great punishment—except for those who repent before you apprehend them. And know that Allah is Forgiving and Merciful."[47]

Accordingly, it is imperative to identify the true perpetrators of these crimes, along with anyone who incited, financed, or otherwise aided them, and to bring them to justice before an impartial court. The goal must be to impose a punishment that is both just and a deterrent to them and others like them, who would violate the sanctity of innocent lives and sow terror in society.

In this regard, it is incumbent (*wājib*) upon Muslims to participate in such efforts through all permissible and effective means, in accordance with God's command:

"Cooperate in righteousness and piety, but do not cooperate in sin and aggression."[48]

However, the main source of moral distress (*ḥaraj*) experienced by Muslim soldiers when asked to fight other Muslims lies in the nature of warfare, where it is extremely difficult—if not impossible—to distinguish between actual perpetrators and innocent civilians who bear no responsibility for the events in question. As the sound *ḥadīth* states:

"If two Muslims confront each other with swords, both the killer and the one killed are in Hell." When asked, "O Messenger of Allah, we understand the ruling for the killer, but why the one who was killed?" the Prophet ﷺ replied: "Because he intended to kill his companion." (Narrated by *al-Bukhārī* and *Muslim*)

In truth, this *ḥadīth* pertains to cases where a Muslim has autonomy over his actions and is free to participate in or abstain from combat. It does not apply to the situation of a Muslim who is a citizen and a soldier in a regular army, who has no choice but to obey the orders issued by the state, and whose refusal to do so could lead to serious consequences—including having his loyalty to the country questioned. Such suspicion may bring about significant harm, since one cannot enjoy the rights of citizenship without fulfilling the obligations it entails.

It follows, then, that the moral distress caused by this authentic *ḥadīth* and others like it is either non-applicable (*marfūʿ*) in this context or legally excused (*maghfūr*) in light of the broader harm

[47] al-Māʾida 5/33-34
[48] al-Māʾida 5/2

that could befall all Muslim soldiers in the U.S. military—or even Muslims in the United States in general—should their allegiance to their country come under doubt, a country in which they enjoy the rights of citizenship and are bound to fulfill its obligations.

As for the moral distress caused by the inability to distinguish between guilty and innocent parties in combat, it is obligatory for the Muslim soldier to intend, through his participation, the establishment of justice and the elimination of falsehood. His objective must be to prevent harm to innocents or to help bring the perpetrators to justice. He bears no responsibility for other objectives of the war that may cause him personal moral distress, as he neither has the ability to prevent them nor is he accountable for their outcomes. ("Actions are judged by intentions," and "Allah does not burden a soul beyond its capacity."[49]) It is a well-established principle in Islamic jurisprudence that what a Muslim is incapable of is not binding upon him. Allah says, "So fear Allah as much as you are able,"[50] and the Prophet ﷺ said, "If I command you to do something, carry it out to the best of your capacity." In this context, a Muslim soldier is part of a greater whole; stepping away from that structure could result in harm far greater—for both himself and the broader Muslim community—than that posed by his participation in the war.

A foundational legal maxim holds that "When two harms conflict, the lesser of the two must be endured." Thus, if refraining from combat would result in widespread harm to the millions of Muslims living in his country, while participation would merely expose the individual soldier to moral distress or emotional and psychological hardship, then the principle of "a specific harm is tolerated to avert a general harm" becomes operative.

If, as indicated in the original question, Muslim soldiers in the U.S. military are able to request—at least temporarily during the impending conflict—to be reassigned to non-combat roles such as logistical or support services, and if making such a request would not cause harm or moral distress to themselves or to other American Muslims, then they ought to (*yanbaghī*) make such a request. However, if doing so would lead to suspicion regarding their allegiance, expose them to mistrust, false accusations, harm to their careers, or doubts about their patriotism, then under such circumstances, making this request would be religiously impermissible (*lā yajūz*).

In conclusion, there is no objection (*lā baʾs*)—God willing—to Muslim soldiers participating in potential military operations against those whom their government has deemed responsible for acts of terrorism, for harboring terrorists, or for providing them with opportunities to train and launch operations from their territory. However, such participation must be based on a sound intention, as previously explained—namely, to dispel any doubts about their allegiance to their country and to prevent harm that is likely to occur. This should be guided by the application of established legal maxims such as: "Necessities (*ḍarūrāt*) permit what is otherwise prohibited," and "Lesser harm is to be borne in order to repel greater harm."

And Allah is All-Knowing, All-Wise.

Signed by: Yūsuf al-Qaraḍāwī, Ṭāriq al-Bishrī, Muḥammad Salīm al-ʿAwwā, Haytham al-Khayyāṭ, Fahmī Huwaidī, Ṭāhā Jābir ʿAlwānī[51]

10 Rajab 1422 / 27 September 2001"

[49] al-Baqara 2/286
[50] al-Taghābun 64/16
[51] For more information on the signatories, see. Nafi, "*Fatwā* and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 97-101.

6. Revisions Made by ʿAlwānī to the Fatwā

It appears that ʿAlwānī introduced a number of modifications to the *fatwā* originally sent to him by al-ʿAwwā. These changes come to light through a comparison between the version of the *fatwā* published by Huwaidī and the final version bearing ʿAlwānī's signature. In addition to minor lexical and stylistic adjustments,[52] ʿAlwānī also made several significant amendments that may have substantive implications.

Table 1. Comparative Analysis of the First and Final Versions of the Fatwā.

Text of the *Fatwā* Published by Huwaidī	**Final Version of the *Fatwā* Signed by ʿAlwānī**	**Impact of the Amendment**
فهو عاص Sinner	فهو جاني Culpable	The term "sinner" generally emphasizes a person's disobedience and sinfulness in relation to God, whereas "culpable" refers to someone who inflicts harm to others through criminal actions. By changing the term, ʿAlwānī shifted the emphasis from the sinner's moral and religious guilt to his criminal liability and the necessity of punishment. This adjustment highlighted the legal and punitive dimensions of the act more explicitly.
أساسه الديني Its religious foundation	أسانيده الشرعية Its Islamic legal grounds	While the phrase "religious foundation" conveys a broad scope that includes general religious principles such as faith, ethics, and jurisprudence, ʿAlwānī's use of "Islamic legal grounds" narrowed the focus to a more strictly legal-technical framework grounded in Islamic jurisprudence. By making this lexical shift, he anchored the discussion more firmly in the domain of *fiqh* and its specialized legal reasoning.
وهو لا يتناول الحالة التي يكون المسلم فيها مواطناً وجندياً في جيش نظامي لدولة، يلتزم بطاعة الأوامر الصادرة إليه، وإلا كان ولاؤه	وهو لا يتناول الحالة التي يكون المسلم فيها مواطنا وجندياً في جيش نظامي لدولة، لا يملك إلا أن يلتزم بطاعة الأوامر الصادرة	In the first version, the Muslim soldier's loyalty to

[52] ʿAlwānī introduced several minor stylistic adjustments in order to make the text clearer and more understandable. For example: هذا السؤال (This query) → إن هذا السؤال ([Indeed] this query), ولو أن الاحداث الإرهابية (Had the terrorist events) → ولو أن هذه الأعمال الإرهابية (Had the terrorist attacks).

لدولته محل شك مع ما يترتب على ذلك من أضرار عديدة. It does not apply to the situation of a Muslim who is a citizen and a soldier in a regular army, obligated to obey orders issued by the state, and whose refusal to do so could lead to serious consequences—including having his loyalty to the country questioned. Such suspicion may bring about significant harm.	إليه وإلا كان ولاؤه لدولته محل شك، مع ما يترتب على ذلك من أضرار عديدة. ذلك أنه لا يستطيع أن يتمتع بحقوق المواطنة دون أن يؤدي الالتزامات المترتبة عليها. It does not apply to the situation of a Muslim who is a citizen and a soldier in a regular army, who has no choice but to obey the orders issued by the state, and whose refusal to do so could lead to serious consequences—including having his loyalty to the country questioned. Such suspicion may bring about significant harm, since one cannot enjoy the rights of citizenship without fulfilling the obligations it entails.	the state and his inability to act contrary to it were merely stated. However, ʿAlwānī reinforced this idea by inserting a stronger emphasis on the soldier's duty of obedience and loyalty to the state, thereby accentuating the notion that there is no alternative course of action.
فانه لا بأس عليهم من هذا الطلب There is no objection to making such a request.	فإنه ينبغي لهم هذا الطلب They ought to make such a request.	While the first version of the *fatwā* offers Muslim soldiers an option—stating that "there is no objection" to serving in non-combat roles behind the front lines, ʿAlwānī, by contrast, emphasized that under the right conditions, requesting non-combat duties is necessary, thereby removing the element of personal discretion. However, the *fatwā* imposed such stringent conditions on this request that ʿAlwānī's modification ultimately appeared to have little practical significance.
ضد من «يُظَنُّ» أنهم يمارسون الإرهاب Against those who are presumed to be responsible for acts of terrorism	ضد من تقرر دولتهم أنهم يمارسون الإرهاب ضدها Against those whom their government has deemed responsible for acts of terrorism	In the first version, the term "presumed" was directly quoted from ʿAbd al-Rashīd's original question, thereby acknowledging that there remains uncertainty about the actual perpetrators and implicitly criticizing the U.S. government's hastiness in

		reaching conclusions. In contrast, ʿAlwānī omitted the term "presumed" and instead inserted the phrase "against those whom their government has deemed responsible for acts of terrorism," thereby closing off any space for Muslim soldiers to question the state's judgment.

At the press conference where the *fatwā* was announced, ʿAlwānī stated that Muslim soldiers, like other American citizens, are entitled to the rights granted to them by the U.S. Constitution. If they believe the war to be unjust, they may exercise their right to general conscientious objection—a total refusal to participate in the war. However, if they consider the war to be just, they should participate in combat operations in Afghanistan alongside the U.S. military.[53]

This public declaration, however, stood in sharp contrast to the legal reasoning found in the *fatwā* itself. In the text of the *fatwā*, ʿAlwānī emphasized partial conscientious objection—requesting reassignment to non-combat duties rather than entirely refusing to participate in the war. Yet, the *fatwā* allowed this form of objection only under extremely restrictive conditions that were, in practice, nearly impossible to meet, thereby effectively subordinating the moral concerns of Muslim soldiers to state allegiance. By contrast, his public statements clearly invoked general conscientious objection. This remarkably swift shift in rhetoric likely functioned as a strategic maneuver to preempt criticism, although, as will be shown, it ultimately proved inadequate.

al-Ḥānūtī, another participant in the conference, offered a different perspective. He argued that Muslim soldiers could only participate in combat alongside U.S. forces if a specific group or country had been found guilty through a judicial ruling. At the time, however, the facts remained unclear, and no solid evidence had been presented. al-Ḥānūtī voiced his opposition to supporting actions "taken by the U.S. President without proof" and deemed Muslim participation in the war inappropriate—at least for the moment.[54] His stance implied that legal rather than political validation was necessary to justify such involvement.

7. Criticism of the Fatwā

Following its leak to the press and subsequent announcement at a press conference, the *fatwā* quickly sparked significant controversy. Although it did receive limited support from certain quarters, the overall reaction was largely critical. For instance, Feisal Abdul Rauf, founder of the American Sufi Muslim Association, praised the *fatwā* as a significant step, claiming it provided juridical support for Muslim soldiers in other national armies to fight terrorism.[55] Nevertheless, such endorsements remained rare, and the *fatwā* became the subject of widespread and sharp criticism.

[53] Group of Muftis, "Ulama's Fatwās on American Muslim Participating in US Military Campaign", *IslamOnline* (16 October 2001); Kurata, "U.S. Islamic Leaders Issue Fatwā on U.S. Muslim Soldiers Fighting Terrorists" (16 October 2001); ʿĀʾisha Aḥmad, "Muslimūn biʾAmrīkā Yarfuḍūn Fatwā al-Qaraḍāwī", *IslamOnline* (18 October 2001).
[54] Muḥammad al-Ḥānūtī, "al-ʿAdāla al-Islāmiyya al-Shāmila", *IslamOnline* (12 October 2001).
[55] Goodstein, "A Nation Challenged: The Religious Opinion; Muslim Scholars Back Fight Against Terrorists" (12 October 2001).

7.1. ʿAlwānī Under Fire

Following the publication of the *fatwā*, ʿAlwānī faced severe backlash from U.S. military authorities. The armed forces argued that the influence of a religious figure over soldiers constituted a problem of "dual authority" within the chain of command. As the chairman of the Fiqh Council, ʿAlwānī was formally interrogated and warned that if he issued another *fatwā* or circulated others' religious rulings on behalf of military personnel, he could face prosecution. Military officials made it clear that no soldier, including Chaplain ʿAbd al-Rashīd, could be subject to any authority outside the U.S. Armed Forces. They insisted that questions could only be addressed if routed through the Department of Defense or official command channels; otherwise, such interventions would be considered interference in military affairs and liable to punishment.[56] Criticism also came from within the Muslim military community. Qaseem Uqdah, director of the American Muslim Armed Forces and Veterans Affairs Council, expressed his frustration over the very notion that such a *fatwā* had been requested. He dismissed it as a political statement of no practical utility to Muslim soldiers and warned it would spark scholarly disputes and distract from more pressing concerns.[57]

Just four days after the press conference, on October 16, ʿAlwānī appeared on IslamOnline's live *fatwā* platform, where he faced a series of challenging questions. One inquirer asked whether he had indeed stated, as reported in The Washington Post, that American Muslim soldiers were obligated to fight in Afghanistan. ʿAlwānī responded that what he had actually said was that all American Muslims have the right to defend themselves if the U.S. is attacked, and he deflected further inquiries by referring the questioner to al-Qaraḍāwī's *fatwā* for more details—thus avoiding a definitive answer. He employed a similar strategy of deflection in response to another inquiry, invoking the concept of "just war" while refraining from offering any conclusive answers.[58]

On October 20, ʿAlwānī joined al-Jazeera's *al-Sharīʿa wa-l-Ḥayāt* alongside four other guests, where he again became the focal point of criticism. Most notably, the program's host, Ḥāfiẓ al-Mīrāzī, took him to task, interrupting repeatedly to accuse ʿAlwānī of stripping Muslim soldiers of their right to conscientious objection and giving religious cover for killing fellow Muslims under the pretext of necessity. Audience members also voiced strong objections. One referenced the *ḥadīth* declaring a Muslim's blood unlawful to another Muslim, pointedly questioning whether the *fatwā* truly rested on authoritative textual evidence. ʿAlwānī replied vaguely, asserting that the *fatwā* was based on scriptural evidence and claiming that, under justified conditions such as *qiṣāṣ* (retribution), a Muslim could be killed by another. Another audience member provocatively asked whether they should follow the *fatwā* or U.S. government directives. ʿAlwānī responded, "Follow your conscience," prompting further criticism. Yet another questioned whether "conscience" possesses any normative authority in Islamic jurisprudence and why Muslims were expected to prove their loyalty to the United States. ʿAlwānī resorted to citing the *ḥadīth*, "Seek counsel from your heart," once again evading the substance of the question. As criticism toward ʿAlwānī intensified, he sought to deflect it by emphasizing that the *fatwā* was non-binding and merely reflected the personal opinions of its

[56] ʿAlwānī, "al-Baghī wa-al-Irjāf".
[57] Goodstein, "A Nation Challenged: The Religious Opinion; Muslim Scholars Back Fight Against Terrorists" (12 October 2001).
[58] Ṭāhā Jābir ʿAlwānī, "Fatwā Session on Current Crisis", *IslamOnline* (16 October 2001).

signatories. Nevertheless, the inconsistencies between the *fatwā* and his subsequent public statements drew even further backlash from the audience.[59]

7.2. al-Qaraḍāwī's Defense of the Fatwā

During *al-Sharīʿa wa-l-Ḥayāt*, confusion over al-Qaraḍāwī's stance was voiced by both panelists and viewers—an ambiguity that was also reflected in online news reports of the time.[60] Indeed, from the very outset of the September 11 attacks, al-Qaraḍāwī had been openly critical of the U.S. military response and strongly opposed the war in Afghanistan, repeatedly declaring it unlawful (*ḥarām*) for Muslim countries to assist the United States in this campaign.[61] Yet instead of resolving the confusion, al-Qaraḍāwī's subsequent statements only intensified it. On October 11, just days after the *fatwā* first appeared in the newspaper, he held a press conference at his home in Doha, where he stated that Muslim soldiers were acting under coercion (*ikrāh*) and should strive to avoid front-line combat whenever possible. If compelled to join active combat, they should remain mindful of the *Sharīʿa* principle that necessity permits the forbidden—while taking care not to exceed the limits of necessity. Despite these qualifying remarks, al-Qaraḍāwī continued to criticize the U.S. military campaign and its broader political objectives in forceful terms.[62]

As criticism of the *fatwā* mounted, al-Qaraḍāwī issued a more comprehensive clarification.[63] He began by asserting that the ruling applied exclusively to Muslim soldiers facing similar circumstances—defined by factors like time, place, custom, and necessity—and could not be generalized. Reaffirming that it is unequivocally forbidden for a Muslim to kill another Muslim, he cited scriptural evidence to support this principle. However, he argued that such scriptural texts must be read in light of the practical realities faced by Muslim soldiers—many of whom, he claimed, had no choice but to follow orders and lacked the authority to question them. "These soldiers," he said, "are merely cogs in a vast machine, compelled to move with it."

Given this reality, al-Qaraḍāwī contended that a Muslim soldier should, if possible, seek exemption from deployment to Afghanistan. If that were not possible, he held that requesting non-combat roles was not merely permissible but obligatory (*wājib*). In this revised framing, al-Qaraḍāwī, like ʿAlwānī, went beyond the collective *fatwā* by prioritizing general conscientious objection and relegating partial objection to a secondary option. He also replaced the collective

[59] al-Sharīʿa wa-l-Ḥayāt, "al-Mawāqif al-ʿArabiyya wa-al-Islāmiyya min al-Ḥarb Ḍidd Afghānistān".
[60] "Fatwā min al-Qaraḍāwī wa-al-ʿAwwā wa-al-Bishrī wa-Ākharīn Tujīz lil-ʿAskariyyīn al-Amrīkiyyīn al-Muslimīn al-Mushāraka fī al-Ghārāt ʿalā Afghānistān" (14 October 2001); Goodstein, "A Nation Challenged: The Religious Opinion; Muslim Scholars Back Fight Against Terrorists" (12 October 2001).
[61] The Saudi Salafī al-Harfī, who strongly condemned the *fatwā*, attributed al-Qaraḍāwī's issuance of such a "contradictory" ruling to his persistent preference for legal concessions (*rukhṣa*) and his emphasis on a fiqh of ease (*fiqh al-taysīr*). See. ʿAbd al-Raḥmān al-Harfī, "al-Qaraḍāwī wa-al-Takhabbuṭ al-Maqīt: Waqfah maʿa Fatwāhū li-l-Junūd al-Amrīkān" (Accessed 6 July 2025).
[62] ʿIṣām Talīmah, "al-Qaraḍāwī: al-Muslim al-Amrīkī Mukrah ʿalā al-Ḥarb", *IslamOnline* (11 October 2001). The following day, on October 12, he intensified his criticism of the United States in his Friday sermon. See. Yūsuf al-Qaraḍāwī, "al-Qimmah al-Islāmiyya al-Masīḥiyya al-Ūlā fī Rūmā Ḥawla al-Irhāb wa-Asbābih", Khuṭab al-Shaykh al-Qaraḍāwī, ed. Khālid al-Saʿd, vol. 6 (Cairo: Maktabat Wahba, 2004), 123-141.
[63] Yūsuf al-Qaraḍāwī, "Fiqh al-Muwāzanāt wa-Mushārakat al-Jundī al-Amrīkī", *IslamOnline* (Accessed 15 June 2025). al-Qaraḍāwī's remarks were translated into English on October 16 and presented as a response to a question. See. Group of Muftis, "Ulama's Fatwās on American Muslim Participating in US Military Campaign", (16 October 2001). Although the exact date of al-Qaraḍāwī's remarks is unclear, it is likely that they were made five or six days after the *fatwā* was announced at the press conference. Indeed, in its October 19 issue, *al-Shaʿb* newspaper reported that the news site *Muhīt al-Ikhbārī* had published Qaraḍāwī's remarks as a reply to a question about the *fatwā*. *al-Shaʿb* newspaper presented the remarks in full, describing them as "closely resembling the *fatwā* in its strangeness and deviance." "al-Qaraḍāwī Yu'akkid Fatwāhu bi-Ibāhat Qatli al-Jundī al-Muslim fī al-Jaysh al-Amrīkī li-Akhihi al-Muslim al-Afghānī", *al-Shaʿb* (19 October 2001).

fatwā's language of "no objection" (*lā baʾs*) with "obligatory (*wājib*)," thereby eliminating any ambiguity over whether the soldier had a choice.

Yet this shift does not indicate a reversal of position. As his remarks continued, it became clear that al-Qaraḍāwī's essential stance remained unchanged. He warned that such requests for reassignment could harm American Muslims' citizenship status, expose them to suspicion, and destroy decades of Islamic *daʿwa* and education. It might even lead to American Muslims being perceived as a "fifth column." Thus, he argued that Muslim soldiers should not pursue actions that serve only to ease their own conscience while causing harm to the broader community. Invoking the principles of balancing benefit and harm (*fiqh al-muwāzanāt*), al-Qaraḍāwī emphasized the importance of considering broader societal consequences. He dismissed his critics as being overly literal in their interpretation of the *fatwā*—what he disparagingly described as "laymen's *fiqh*"—and accused them of ignoring the higher objectives of Islam (*maqāṣid al-Sharīʿah*). Finally, he advised Muslim soldiers to refrain from killing fellow Muslims in direct combat to the extent that they are able. And if that too proved impossible, he urged them at the very least to feel moral distress in their hearts.

Nonetheless, the clarifications offered by both al-Qaraḍāwī and ʿAlwānī did little to blunt the criticism directed at the *fatwā*. On IslamOnline, where Muslim soldiers had previously been discussed in general terms, debate increasingly began to focus—directly or indirectly—on the collective *fatwā* and its implications.

7.3. Fatwā Discussed on IslamOnline

On October 14, in response to a question about Muslim soldiers in the U.S. Army, ʿAlī Jumʿa stated that *jihād* must be fought solely in the path of God, and wars pursued for worldly purposes cannot be considered *jihād*. For him, in such a situation, either the soldier should exercise his constitutional right to general conscientious objection and not participate in the war at all, or he should request a non-combat assignment or resign from military service. If compelled to fight, he ought to refrain from fighting, so as to avoid killing Muslims or aiding in their killing.[64]

Frustrated with ʿAlwānī's post-October 12 emphasis on just war and conscience, and seeking a more definitive answer, a questioner asked al-Ḥānūtī: "Do you endorse the fatwa by Dr. Qaradawi basically allowing Muslims in the US army to fight even against Muslim countries? Please don't shift the burden to us by saying we have to determine for ourselves if this is a just war."[65] However, al-Ḥānūtī's response differed little from what he had stated during the earlier press conference, leaving the questioner's concerns unresolved.

One of the more unusual *fatwā* requests came to Suʿād Ibrāhīm Ṣāliḥ, a professor of comparative *fiqh* at al-Azhar. A man whose wife served in the U.S. military asked what his stance should be if she were deployed to Afghanistan. Ṣāliḥ answered that if the husband was in a position to prevent his wife from going, it would be obligatory (*wājib*) for him to do so. Should the wife disobey and insist on going, she would be considered rebellious (*nāshiz*), and the husband should apply the disciplinary steps outlined in the Qur'ān 4:34.[66]

[64] ʿAlī Jumʿa, "Fatāwā Fiqhiyya Ḥawla al-Ḥarb al-Jāriya", *IslamOnline* (14 October 2001).
[65] Muḥammad al-Ḥānūtī, "General Fatwā Session", *IslamOnline* (18 October 2001).
[66] Suʿād Ibrāhīm Ṣāliḥ, "Fatāwā Nisāʾiyya", *IslamOnline* (24 October 2001).

Lastly, American Muslim activist Imam Mahdi Bray also faced questions regarding the *fatwā*. One inquirer expressed dismay that Muslim organizations could endorse a *fatwā* that permits Muslims to kill fellow Muslims in war and complained that these groups, despite their disclaimers to the contrary, often presume to speak for all Muslims. Bray unequivocally acknowledged the validity of the criticism directed at the *fatwā*, noting that while he was not a scholar and could not issue legal opinions, he remained conscious of being held accountable before God for his position on the "heinous acts" occurring in Afghanistan. In a follow-up question reflecting the broader confusion surrounding the *fatwā*—some interpreting it as requiring Muslim soldiers to fight, others as encouraging conscientious objection—Bray clarified that, based on his reading, the *fatwā* did not promote conscientious objection, but merely presented it as one available option.[67] As can be seen, the confusion surrounding the *fatwā* persisted due to the discrepancy between the text of the *fatwā* and the subsequent remarks of the signatories in the media.

The discussion of the *fatwā* on live platforms led to responses that were often brief and reactive. As a result, the *fatwā*'s core arguments and underlying principles were not thoroughly examined, and commentary remained largely superficial. More detailed critiques that directly addressed the *fatwā* and analyzed its foundational premises were typically published in newspapers and journals. The reactions to the *fatwā* can be categorized under three main headings: *Wasaṭī* responses, *Salafī* criticisms, and critiques from Egyptian Islamists. The *Wasaṭī* camp, likely due to personal ties with the signatories, adopted a more measured tone in their criticisms, whereas *Salafī* reactions were far more severe—going so far as to accuse the signatories of apostasy.[68] The critiques from Egyptian Islamists—mostly affiliated with the Muslim Brotherhood or *al-Jamāʿa al-Islāmiyya* and voiced largely through the weekly *al-Shaʿb* newspaper—generally fell somewhere between the two, varying in tone depending on the author. Although some individuals made brief references to the collective *fatwā* in portions of their newspaper columns and public statements,[69] these criticisms fall outside the scope of this study due to space limitations.[70]

7.4. Wasaṭī Responses to the Fatwā

The first direct response to the *fatwā* from within the *Wasaṭī* camp came from ʿAlī Jumuʿa on October 16—just two days after his earlier statement on the live *fatwā* platform. Criticizing the *fatwā*'s tone and legal reasoning, Jumuʿa asserted that Islamic rulings must be based on actual events, not hypothetical scenarios. He further argued that the United States was acting in violation of judicial principles by treating mere suspicion as grounds for the use of lethal force. Even if *al-Qāʿida* were proven responsible, Jumuʿa insisted, it would remain categorically impermissible for Muslims to fight fellow Muslims. To support his view, he cited the *ḥadīth* quoted in the collective *fatwā* itself—that if two Muslims confront one another with swords, both

[67] Imam Mahdi Bray, "American Muslim Participation in the War", *IslamOnline* (25 October 2001).
[68] Although Nafi claims that the only direct *Salafī* criticism of the *fatwā* came from Ṣalāḥ al-Ṣāwī (Nafi, "Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 111; Shavit follows him on this point: Shavit, *Shari'a and Muslim Minorities: The Wasaṭī and Salafī Approaches to Fiqh al-Aqalliyyat al-Muslima*, 235), as will be shown below, other *Salafī* figures also issued direct responses to the *fatwā*.
[69] For example, see. Khālid Ḥasan, "Tadāʿiyyātu Aḥdāth Niyūyūrk wa-Wāshingtun: al-Intiḥār al-Dhātī li-Baʿḍ al-Muʾassasāt wa-l-Faʿāliyyāt al-Islāmiyya al-Siyāsiyyah fī Amrīkā!", *al-Shaʿb* (19 October 2001); ʿAzzām al-Tamīmī, "Muslimū al-Gharb wa-al-Ḥarb ʿalā al-Afghān", *al-Quds al-ʿArabī* (19 October 2001), 19; ʿAbd al-Wahhāb al-Afandī, "Muftī Rumsfīld", *al-Quds al-ʿArabī* (27 October 2001), 19. For Hamas leader Bassām Jarrār's response to the *fatwā*, published on October 15, see. "Terror In America (23) Muslim Soldiers In the U.S. Armed Forces In Afghanistan: To Fight Or Not To Fight?" (7 November 2001). [We are grateful to ʿAzzām al-Tamīmī for sharing the aforementioned column with us.]
[70] Given that the critiques presented below already address the *fatwā*'s premises in sufficient depth from juristic and other analytical perspectives, the *fatwā* will not be subjected to a separate, dedicated legal examination; instead, specific analytical insights will be offered in the conclusion.

are destined for Hell.[71] Although Jumuʿa's stance on the Muslim soldiers largely echoed his earlier remarks, he added that a Muslim soldier compelled to fight in war must not kill another Muslim—and if such killing occurs by mistake, he is obligated to pay blood money (*diyah*) and perform expiation (*kaffārah*). Furthermore, while his initial response urged extreme caution regarding the killing of fellow Muslims, his later statement took a firmer stance, asserting unequivocally that such acts are categorically impermissible.

As previously noted, Mawlawī initially refrained from issuing a definitive ruling on Muslim soldiers, leaving the decision to individual conscience. However, on October 18, he directly criticized the *fatwā*, marking a decisive departure from his earlier view.[72] While affirming that serving in a non-Muslim army could be permissible, he restricted this to defensive wars protecting one's own country. Participation in offensive wars—whether against Muslim or non-Muslim nations—was, in his view, impermissible.

He challenged the *fatwā*'s interpretive use of the verse "cooperate in righteousness and piety," arguing that cooperation with non-Muslims is only valid in causes recognized as righteous in Islam—not in aggression or injustice. He labeled the U.S. war in Afghanistan as unjust and unlawful, targeting civilians without clear evidence. In contrast to the *fatwā*'s interpretation, he held that the *ḥadīth* stating that the Muslims who fight one another—both the killer and the killed—are in Hell also applied here, thus ruling out Muslim participation in such a war.

Mawlawī emphasized that a Muslim's primary allegiance lies with Islamic legal rulings (*aḥkām al-sharʿiyya*), though this does not diminish national allegiance. For him, national allegiance is part of religious loyalty—but not synonymous with unconditional support for government actions. Such unquestioning allegiance, he argued, contradicts political pluralism and democratic values. He affirmed that Muslim soldiers have the right to abstain from participation in war without it being considered disloyal. Citing the global anti-war movement, he stressed that non-participation would not undermine their allegiance. If non-participation necessitates resignation, then it becomes obligatory. Nonetheless, Mawlawī acknowledged that if abstaining from war were to cause intolerable harm—either personally or collectively—then principles such as "necessities permit the prohibited" and "the lesser harm is to be chosen" may apply. In this way, he subtly aligned himself with the *fatwā*'s conclusion, without explicitly endorsing Muslim participation in the war.

Although Mawlawī claimed to merely expand on his earlier opinions, the shift in tone is clear. Previously, he had emphasized the difficulty Muslim soldiers faced in balancing religious and national obligation, insisting the choice be left to individual conscience. Now, he seeks to reconcile religious loyalty and national allegiance, asserting that it is definitively impermissible for Muslim soldiers to participate in war, as they are not actually in a state of necessity. Interestingly, while he once argued that the *ḥadīth* about killing a fellow Muslim did not apply to U.S. soldiers, he now explicitly states that it does. This shift appears to be driven by the heavy U.S. bombardment of Afghanistan beginning October 7, which likely shaped his more critical stance.

However, one figure continued to uphold Mawlawī's earlier position of *tawakkuf* (refraining from issuing a judgment). On October 19, just a day after Mawlawī's new statement, Mauritanian

[71] ʿAlī Jumʿa, "Taqāṭul al-Muslimīn Ḥarām Qaṭʿan", *IslamOnline* (16 October 2001).
[72] Fayṣal Mawlawī, "Muʿāraḍat al-Ḥukūmāt Lā Taʿnī Inʿidām al-Walāʾ", *IslamOnline* (18 October 2001).

scholar Mukhtār al-Shinqīṭī published an article reinforcing Mawlawī's first stance with supporting arguments.[73] He began by stressing the difficulty of issuing a clear *fatwā* either permitting or prohibiting participation in the war. A prohibition, he argued, would further complicate the already precarious position of American Muslims and provide Islamophobic media with further pretexts. For him, harming Muslims in the U.S. for the sake of defending those in Afghanistan would not be a just outcome. Conversely, he also found it deeply problematic to issue a *fatwā* permitting Muslim soldiers to kill other Muslims. He referenced the Gulf War, where permissive *fatwā*s led to catastrophic consequences—most notoriously, the deaths of "half a million Iraqi children who had never even heard of Kuwait." Contemporary jurists, he cautioned, should not repeat the same mistake.[74] He also criticized the signatories, noting that some lacked the proper qualifications to issue *fatwā*s.

Recalling his youthful discomfort with the concept of *tawakkuf* during his studies at *Mālikī* madrasas in Mauritania, al-Shinqīṭī explained that witnessing the complexity of the dilemma faced by Muslim soldiers in the U.S. had led him to appreciate the wisdom behind this approach. In his words, *tawakkuf* is "not always a passive stance; it can be valid and principled when harms and interests overlap, effects become entangled, and outcomes are uncertain." This approach, he argued, would protect scholars from endorsing rulings that could facilitate either Muslim deaths in Afghanistan or anti-Muslim backlash in the U.S. Ultimately, this position shields Muslims from binary *fatwā*s that reduce the issue to "either-or" scenarios, and offers an escape from "President Bush's own *fatwā*: 'You are either with America or with terrorism.'"

Another critique of the *fatwā* came from the Egyptian activist and academic Ṣalāḥ Sulṭān, a member of both the ECFR (European Council for Fatwa and Research) and FCNA.[75] He began his article by quoting ʿAbd al-Rashīd's question and offering a brief two-sentence response: "Participation in this war against Muslims is impermissible under *fiqh*. If it becomes extremely difficult to avoid the war altogether, Muslim soldiers must request reassignment to non-combat duties such as food service." In supporting his position, Sulṭān directly criticized the collective *fatwā*. Referring to the Islamic legal principle of *barāʾat al-aṣliyya* (presumption of innocence), he argued that there was no conclusive evidence against Osama bin Laden or *al-Qāʿida*. Rather, innocent Afghan civilians were being targeted under this pretext. According to the *Qur'ān* 5:32, it is absolutely forbidden to take a life on the basis of mere suspicion. This principle, he emphasized, applies universally—from America to Afghanistan, from Palestine to Iraq. He warned that if the *fatwā*'s reasoning were followed, it would set a precedent for further military campaigns against other Muslim regions such as Iraq or Indonesia.

He also took issue with the invocation of the legal maxim that "a specific harm is tolerated to avert a general harm." For Sulṭān, the greatest harm Muslim soldiers might face would be dismissal or imprisonment, which pales in comparison to killing innocent Muslims. The alleged benefit of protecting American Muslims from harm by going to war, he argued, is highly speculative and uncertain, while the suffering of millions of Muslims around the world is real and immediate. To counter this, he invoked a different maxim: "Harm cannot be removed by a similar

[73] Muḥammad al-Mukhtār al-Shinqīṭī, "ʿAn Fatwā al-Muslimīn fī al-Jaysh al-Amrīkī", *al-Shaʿb* (19 October 2001).
[74] Although Shinqīṭī did not explicitly mention names, it appears that he was referring to al-Qaraḍāwī and Huwaidī—both of whom had previously issued *fatwā*s permitting the U.S. military intervention in Iraq. See. Haddad, "Operation Desert Storm and the War of Fatwās", 305-306.
[75] Ṣalāḥ Sulṭān, "al-Muslim Yufākhir bi-Risālatih wa-Lā Yunkiruhā", *IslamOnline* (Accessed 1 July 2025).

or greater harm." Thus, allowing the certain oppression of millions of Muslims cannot be justified by the hypothetical risks faced by Muslims in the U.S.

Sulṭān also criticized the *fatwā*'s reliance on intention (*niyya*) as a basis for permissibility. He questioned how one could "establish justice and eliminate falsehood by killing thousands, displacing millions, and subjecting them to starvation and the deadly cold of winter—with no solid evidence even presented." Another concern he raised was the selective use of *Qurʿānic* verses and *ḥadīth*s. He pointed out that the *fatwā* quoted the *ḥadīth* "If I command you to do something, carry it out to the best of your capacity" but omitted the second part: "and if I forbid you from something, then stay away from it"—which, Sulṭān argued, is more applicable to Muslim soldiers in this context.

He was also critical of the *fatwā*'s language regarding conscientious objection. He noted that the *fatwā* employs the softer expression *yanbaghī* (ought to) when referring to the permissibility of requesting reassignment to non-combat roles for those who are able. However, it employs the stronger expression *lā yajūz* (impermissible) in contexts where such a request might cast doubt on Muslim soldiers' loyalty to the U.S. or expose them to suspicion and negative perceptions. According to Sulṭān, this wording is juridically inconsistent. On the contrary, if the soldier is capable, requesting non-combat roles should be deemed *wājib* (obligatory), while if there is a mere possibility of harm or suspicion, refraining from such a request should at most be considered *makrūh* (discouraged), not impermissible. Declaring such requests *lā yajūz* (impermissible), he argues, "effectively renders sinful any Muslim soldier who seeks to avoid participating in a war whose objectives and limits are known only to American policymakers—and ultimately to God alone."[76]

7.5. Salafī Reactions to the Fatwā

The first *Salafī* response came from Sulaymān b. Nāṣir al-ʿUlwān on October 17.[77] In reply to a question about the duty to support Muslims in Afghanistan, al-ʿUlwān declared it obligatory for Muslims capable of fighting to go and resist U.S. forces, and for others to assist with wealth and speech. He strongly condemned any cooperation with non-Muslims against Muslims, calling it an act of disbelief (*kufr*). He described American Muslim soldiers as the worst example of such betrayal and accused those who permitted their participation—"defeated persons," as he called them—of legitimizing one of the "gravest sins and the most contradictory acts to the essence of faith." He also rejected the excuse of coercion (*ikrāh*), arguing that these soldiers are driven not by coercion but by personal interest—seeking pay and position at the cost of killing innocent Muslims. Even if threatened with death, he insisted, Muslim soldiers must not participate in such a war. He concluded by stressing that the lives of oppressed Afghans are not less valuable than those of Muslim soldiers and labeled such participation a clear form of disbelief under the doctrine of al-*walāʾ wa-l-barāʾ*. al-ʿUlwān's response was republished in the October 26 issue of *al-Shaʿb* newspaper and was directly aimed at refuting the collective *fatwā*.[78]

[76] In an article he authored in 2008, Sulṭān stated that under normal circumstances, serving in the military of a non-Muslim country is permissible, but that Muslim soldiers serving in these countries must not participate in wars waged against another state, whether Muslim or non-Muslim. He further noted that he had issued a *fatwā* declaring it impermissible for American Muslim soldiers to join the wars in Afghanistan and Iraq. At the same time, he argued that if a state—whether Muslim or non-Muslim—attacks the non-Muslim country in which they reside, then it would be obligatory for these Muslims to fight against that state. See. Ṣalāḥ Sulṭān, "al-Muwāṭana fī Diyār al-Islām bayna al-Nāfīn wa-al-Muthbitīn", *al-Majalla al-ʿIlmiyya li-l-Majlis al-Ūrūbbī li-l-Iftāʾ wa-l-Buḥūth* 12-13 (July 2008), 153-154.

[77] Sulaymān al-ʿAlwān, *Majmūʿ al-Fatāwā* (s.l.: Dār al-ʿAlwān, n.d.), 265-268.

[78] Sulaymān al-ʿAlwān, "Mushārakat al-Junūd al-Muslimīn fī al-Jaysh al-Amrīkī fī Qitāl al-Afghān Munāfāt li-Aṣl al-Īmān", *al-Shaʿb* (26 October 2001).

One of the harshest *Salafī* critics of the *fatwā* was the Saudi scholar Nāṣir b. Ḥamd al-Fahd. On October 31, he published a treatise titled "*al-Tibyān fī Kufr man Aʿāna al-Amrīkān* (The Exposition Regarding the Disbelief of the One That Assists the Americans),"[79] prefaced with endorsements from three prominent *Salafī* scholars: Ḥamūd b. ʿUqlāʾ al-Shuʿaybī,[80] Sulaymān ibn Nāṣir al-ʿUlwān, and Alī ibn Khuḍayr al-Khuḍayr[81]—two of whom were also highly critical of the *fatwā*. Referring to "the leaders of disbelief and the heads of Satan—America, Britain, and their allies—who launched war against the Taliban and other Islamic nations under the pretext of fighting terrorism," al-ʿUlwān declared that aiding them is apostasy. He again criticized the "oppressive *fatwā*," claiming it "has no connection to jurisprudence or faith, lacks any grounding in legal principles, and contradicts the path of Muslims."[82] On the other hand, al-Khuḍayr said that he had been preparing a refutation to "the deviant *fatwā* issued to Muslim soldiers," and summarized al-Fahd's arguments.[83]

al-Fahd began by stating that the 9/11 attacks "exposed the hypocrites and unmasked the plots of the disbelievers" and that his book aimed to dispel confusion about whether Muslims could support the "leader of disbelief" namely, the United States. He enumerated the "crimes" and "corruption" committed by the U.S. at home and abroad, concluding that America deserved no sympathy for the 9/11 attacks. He praised the Taliban for implementing *Sharīʿa* despite some flaws and asserted that the 9/11 attacks were part of a broader "crusade against Islam."[84]

Although al-Fahd's main response to the collective *fatwā* appears in the third section of his treatise, he seems to be addressing other views as well, not just the collective *fatwā*. He divided his critique into eight subsections, focusing explicitly on the collective *fatwā* only in the fourth, while referencing it indirectly in others. There, he stated his intention to refute the claims of "a group from among the people of misguidance who argue, whether on behalf of a government

[79] Nāṣir ibn Ḥamad al-Fahd, *al-Tibyān fī Kufr man Aʿāna al-Amrīkān*, s.l.: s.n., 2001. For the English translation, see. Nāṣir ibn Ḥamd al-Fahd, *The Exposition Regarding the Disbelief of the One That Assists the Americans* (s.l.: *al-Tibyan* Publications, 2003).

[80] Shuʿaybī, four days after the 9/11 attack, declared his support for the events from an Islamic perspective and responded to those who criticized the perpetrators and cited civilian casualties by presenting counterarguments grounded in *sharʿī* evidence. It appears that, even three days after the attack, Shuʿaybī had no doubt that the perpetrators were *al-Qāʿida* or another Muslim group. See. Ḥamūd ibn ʿUqlāʾ al-Shuʿaybī, "Bayān ʿammā Jarā fī Amrīkā min Aḥadā" (15 September 2001). After several Muslim countries expressed their intention to support the U.S. against Afghanistan, Shuʿaybī emphasized that anyone who offered any form of support to the U.S. against the Taliban would be deemed an apostate. However, in this text he does not explicitly mention Muslim American soldiers. See. Ḥamūd ibn ʿUqlāʾ al-Shuʿaybī, "al-Walāʾ wa-l-Barāʾ wa-Wujūb Nuṣrat Ṭālibān wa-Ḥukm Man Ẓāhara al-Amrīkān ʿalayhā" (7 October 2001). Shuʿaybī was interrogated by Saudi authorities because of this *fatwā*. See. "Istijwāb ʿĀlim Saʿūdī Kaffara Muʾayyidī al-Hajamāt ʿalā Afghānīstān", *al-Jazeera* (14 October 2001). al-Qaraḍāwī also objected to Shuʿaybī's *fatwā*, though his objection appears to function largely as a defense of the collective *fatwā*: "I do not know this man. This is an extreme and radical *fatwā*. The ruling of apostasy issued by the [Shuʿaybī's] *fatwā* might apply to those who support disbelievers merely because they are disbelievers. However, it does not apply to those who support them out of fear of being accused of terrorism or due to some doubt. Such individuals fall under a different legal ruling than that of disbelief." ʿIṣām Talīmah, "al-Qaraḍāwī: Munaffidhū al-Tafjīrāt Intiḥāriyyūn.. Lā Shuhadāʾ", *IslamOnline* (16 October 2001). al-Qaraḍāwī's statements about Shuʿaybī became the subject of a separate critique by Saudi *Salafī* scholar ʿAbd al-ʿAzīz al-Jarbūʿ. While leveling harsh accusations against al-Qaraḍāwī and even declaring him an apostate, al-Jarbūʿ consistently praised Shuʿaybī and also addressed the collective *fatwā*. According to him, al-Qaraḍāwī "together with Fahmī Huwaidī, the vast ocean al-ʿAwwā, and the peerless sage of our age ʿAlwānī—who have owned the Institute of Rational Thought—supported the *fatwā* that obligated Muslim soldiers to fight their fellow Muslims in Afghanistan." For al-Jarbūʿ, this *fatwā* has no connection to Islam, though it aligns perfectly with "the religion understood by al-Qaraḍāwī and his gang." al-Jarbūʿ further claimed that those in the U.S. military identifying as Muslims actually "belonged to the deviant Nation of Islam" and cited the religious views of Elijah Muhammad to support his point. However, al-Jarbūʿ overlooked the fact that, following W.D. Muhammad, this movement had largely abandoned its earlier doctrines and aligned itself with *Sunnī* Islam. See. ʿAbd al-ʿAzīz ibn Ṣāliḥ al-Jarbūʿ, "Sāqiyah Lāṭamat Baḥran" (25 October 2001).

[81] For Khuḍayr's defense of the 11 September attacks, see. Alī ibn Khuḍayr al-Khuḍayr, "Fatwā al-Shaykh ʿAlī Ibn Khuḍayr al-Khuḍayr", *al-Shaʿb* (26 October 2001).

[82] Fahd, *al-Tibyān fī Kufr man Aʿāna al-Amrīkān*, 6-8.

[83] Fahd, *al-Tibyān fī Kufr man Aʿāna al-Amrīkān*, 9-21.

[84] Fahd, *al-Tibyān fī Kufr man Aʿāna al-Amrīkān*, 22-99.

or Muslim soldiers in the American army, that necessity justifies forming an alliance with the United States." According to him, coercion can only excuse uttering words of disbelief (*kufr*), but there is a scholarly consensus (*ijmāʿ*) that it cannot justify killing or harming others. Since the U.S. and other "disbelieving" nations aim to kill Muslims, offering them any form of assistance is strictly impermissible—and coercion is not a valid excuse in this case. Moreover, the so-called coercion invoked here is in fact merely a cover for worldly desires: prestige, salary, or property. Such motives, he argued, are not recognized in *fiqh* as legitimate grounds for invoking necessity (*ḍarūra*). Furthermore, even if the individuals in question were in fact guilty, he argued that "they should not be tried in the courts of the *ṭāghūt* (*false gods*)—neither in those of the United States nor through the processes that the *ṭāghūts* label as 'international law.'" Rather, he maintained that they must be judged in accordance with the *Sharīʿa*.[85]

One of the most prominent *Salafī* voices to address the *fatwā* in detail by late October was Ṣalāḥ al-Ṣāwī.[86] He began by critiquing the notion of citizenship, claiming it had supplanted the Islamic creed of *al-walāʾ wa-l-barāʾ* and played a decisive role in legitimizing *fatwā*s permitting Muslim soldiers to fight groups whom "their government has deemed responsible for acts of terrorism." For al-Ṣāwī, this distorted allegiance enabled the justification of fighting fellow Muslims under the banner of state commitment. He scrutinized the *fatwā* line by line, beginning with ʿAbd al-Rashīd's question. Although the questioner explicitly referred to mere "speculation" (*ẓann*) regarding the identity of the 9/11 perpetrators, the signatories, in the very opening of the *fatwā*, declared it "obligatory" (*wājib*) for Muslims to stand united against those involved in the attacks—thus presenting *al-Qāʿida* as definitively guilty, despite the lack of conclusive evidence. al-Ṣāwī also objected to classifying the 9/11 attacks as *ḥirāba* under Islamic jurisprudence. According to him, in *fiqh*, *ḥirāba* means "great robbery (*al-sariqa al-kubrā*)," that is, "a crime committed solely out of a desire to sin, involving the spilling of blood, terrorizing of travelers, and seizing of property by force." Those who commit such acts, he stated, "have no cause nor any interpretive justification (*taʾwīl*) for their actions." al-Ṣāwī pointed out that *ḥirāba* is often confused with *baghy* (armed rebellion), and even if it were proven that these acts were committed by *al-Qāʿida*, in his view, the attacks have nothing to do with *ḥirāba*. For him, *al-Qāʿida* is a movement that shifted its focus from local *jihād* in Afghanistan to global *jihād* after witnessing the crimes and genocides committed by the United States and the West against the Muslim world. He alleged that *al-Qāʿida* is known for avoiding immoral actions such as looting in the Muslim world, and the perpetrators of the attack themselves were victims who perished in the attack. Ultimately, for al-Ṣāwī, this indicates that those who carried out the attack were not motivated by worldly gain, but instead were driven by a *jihād* motivation.[87]

However, although al-Ṣāwī objected to labeling *al-Qāʿida*'s action as *ḥirāba*, stating that such a judgment would serve the interests of "global zionism," he still opposed the arguments presented in favor of the 9/11 attacks and did not endorse the attacks themselves. In this context, without explicitly naming them, he responded point by point to the arguments presented by

[85] Fahd, *al-Tibyān fī Kufr man Aʿāna al-Amrīkān*, 114-120.
[86] Ṣalāḥ al-Ṣāwī's article was published in *al-Shaʿb* newspaper on November 2. See. Ṣalāḥ al-Ṣāwī, "Taʿqīb ʿalā *Fatwā* Ibāḥat Qitāl al-Muslimīn fī Afghānistān", *al-Shaʿb* (2 November 2001). However, Nafi notes that Ṣāwī's article had already begun circulating online in late October. See. Nafi, "Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 111. Ṣāwī later compiled this article, along with his other writings on the United States, into a book. For ease of reference, this edition will be used here: See. Ṣalāḥ al-Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, s.l.: s.n., n.d.
[87] Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, 115-126.

Shuʿaybī and al-Khuḍayr, who defended the legitimacy of the 9/11 attacks. al-Ṣāwī claimed that the justifications offered by the supporters of the 11 September attacks were mere interpretations (*tafsīr*), not valid grounds for legalizing armed action.[88] It thus appears that al-Ṣāwī considered the 9/11 attacks not as an act of *ḥirāba*, but more akin to a case of *baghy*, carried out based on certain interpretive reasoning. Nevertheless, there is a significant flaw in al-Ṣāwī's argument. As Nafi rightly pointed out, *baghy* refers to rebellion against a Muslim *imām*, and thus applying it to the United States is jurisprudentially unsound.[89]

al-Ṣāwī further criticized the *fatwā* for legitimizing America's authority to identify and punish enemies of the state—thus placing intelligence agencies and American powers in the role of "witness, judge, and executioner." He argued that the *fatwā* wrongly accepted "the testimony of disbelievers regarding Muslim lives, property, and honor." Moreover, he questioned how the "establishment of justice and the elimination of falsehood" could be accomplished through the killing of innocent Muslims, especially when the *fatwā* exempted soldiers from moral distress. This exemption, he argued, provided Muslim soldiers with a misplaced sense of moral exoneration and suppressed any inner moral conflict. In his view, the *fatwā* gave precedence to national allegiance over religious loyalty and distorted *Qurʿānic* prohibitions against Muslims fighting one another. al-Ṣāwī argued that if fighting fellow Muslims is forbidden, then assisting non-Muslims in fighting Muslims is even more severely prohibited—since it involves two grave sins: fighting Muslims and supporting their enemies.[90]

Another central objection was the *fatwā*'s reliance on speculation (*ẓann*) rather than certainty. Emphasizing the presumption of innocence, he criticized the *fatwā* for accepting U.S. accusations against *al-Qāʿida* without credible proof. Given the sophistication of the attacks, he argued that it was implausible for a country "where most people can hardly secure daily sustenance" to have orchestrated them, suggesting instead that the perpetrators may have been domestic actors within the United States itself.[91]

al-Ṣāwī also asserted that the *fatwā* sought to silence even the moral distress Muslim soldiers might feel about participating in the war. He identified a twofold strategy in the *fatwā*: first, exempting Muslim soldiers from *Qurʿānic* injunctions by claiming they were not directly addressed, and second, arguing that they were under coercion. He rejected this rationale and, like Ṣalāḥ Sulṭān, accused the *fatwā* of distorting the prophetic *ḥadīth* on ability by omitting the phrase "if I forbid you from something, then stay away from it"—which, he said, was precisely what applied to Muslim soldiers.[92] al-Ṣāwī also criticized the *fatwā* for dismissing the conscientious efforts of Muslim soldiers who sought non-combat assignments to avoid armed conflict. Instead of recognizing these efforts, the *fatwā* imposed unreasonable conditions that effectively nullified any alternative to fighting. In doing so, it ignored the moral qualms of Muslim soldiers and pressured them into battle, invoking fears over patriotism and allegiance to the state.[93]

[88] Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, 126-128.
[89] Nafi, "Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 111-112.
[90] Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, 128-131.
[91] Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, 133-134.
[92] Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, 134-136.
[93] Ṣāwī, *Nawāzil Fiqhiyyah ʿalā al-Sāḥah al-Amrīkiyyah*, 136-137.

Another *Salafī* critique of the *fatwā* came in December from *Majallat al-Waʿī*, a journal affiliated with *Ḥizb al-Taḥrīr*.[94] The journal accused the *fatwā*'s authors of "twisting the scriptural texts and distorting God's rulings" to appease the United States and its allies.[95] It then proceeded to systematically refute the *fatwā*'s main arguments. First, the journal rejected the interpretation of the *ḥadīth* about two Muslims fighting each other being destined for Hell, arguing that the text is general (*ʿāmm*), not specific (*khāṣṣ*), and applies even to those serving in a state military. It also harshly criticized the *fatwā* for suggesting that those involved in the terrorist attacks in the U.S. should be punished under the crime of *ḥirāba*, and for framing Muslim cooperation with the U.S. in this matter as a form of "cooperation in righteousness and piety." However, contrary to how the journal presented it, the *fatwā* did not mandate that the crime of *ḥirāba* must be applied; rather, it stated that, from a *fiqh* perspective, such acts would fall under the legal classification of *ḥirāba*. Moreover, recognizing that this ruling was unlikely to be implemented in the U.S. legal system, the *fatwā* instead called for an alternative deterrent punishment. This suggests that the journal may have misread or misrepresented the *fatwā*'s actual position on the issue.

The journal also took issue with the *fatwā*'s emphasis on the sincerity of Muslim soldiers' intentions, insisting that "good intentions cannot make the unlawful lawful." In its view, anyone who knowingly participates in the killing of Muslims bears full moral and religious responsibility, regardless of motive. It further denounced the *fatwā*'s use of general legal maxims such as "necessities permit what is otherwise prohibited," arguing that this principle was originally meant for extreme cases—like consuming carrion during famine—not as a justification for Muslims fighting fellow Muslims.

The concern that a soldier's refusal to participate in combat might cast doubt on their patriotism was likewise dismissed. According to the journal, if a Muslim is compelled to commit a prohibited act in a given country, their obligation is to seek refuge elsewhere rather than comply. Nor did it accept the application of the "when two harms conflict, the lesser of the two must be endured" principle. The journal contended that the greater harm lies in killing Muslims and aiding in the destruction of their lands, whereas any lesser harm—such as imprisonment or job loss—must be endured patiently. To support its case, the publication referenced American soldiers during the Vietnam War who refused to fight out of conscience and accepted the consequences. In stark contrast, it warned, Muslim soldiers who join the war in Afghanistan are engaging in a clear sin and therefore risk facing severe punishment in the Hereafter.

7.6. Egyptian Islamist Critiques of the *Fatwā*

A notable critique of the *fatwā* came from Egyptian Islamist Muḥammad Muṣṭafā al-Muqriʾ, a prominent figure in the *al-Jamāʿa al-Islāmiyya* movement. His article, published on October 19, 2001,[96] offered a meticulous, line-by-line analysis of the *fatwā*. What distinguished al-Muqriʾ's

[94] Majallat al-Waʿī, "Fatāwā Tatajarraʾ ʿalā Dīn Allāh" (December 2001). Although *Ḥizb al-Taḥrīr* is generally classified as an Islamist rather than a *Salafī* group, *Majallat al-Waʿī* is discussed under the heading of *Salafīsm* in this study because its broader ideological discourse extensively draws on *Salafī* concepts, particularly the doctrine of *al-walāʾ wa-l-barāʾ*.

[95] The journal also engaged in polemics with the signatories of the *fatwā* at various times. For criticism directed at al-Qaraḍāwī, see. Majallat al-Waʿī, "Awwalīyāt al-Ḥarakah al-Islāmiyya fī al-Marḥalah al-Qādimah" (May 1999); Majallat al-Waʿī, "Hal Abāḥa al-Qaraḍāwī al-Ribā?" (April 2000). For criticism leveled against Huwaidī, see. Majallat al-Waʿī, "Rudūd wa-Munāqashāt: Waqfah maʿa Kātip" (December 1987); Majallat al-Waʿī, "Awwalīyāt al-Ḥarakah al-Islāmiyya fī al-Marḥalah al-Qādimah" (May 1999). The journal has also made serious accusations against the IIIT, of which ʿAlwānī was the president. See. Majallat al-Waʿī, "Kalimātu al-Waʿī: Al-Dawla al-Islāmiyya (al-Khilāfa) Mā Hiya Ḥaqīqatuhā?" (April 1997).

[96] Muḥammad Muṣṭafā al-Muqriʾ, "Bal al-Mushāraka fī Juyūsh al-Mushrikīn Ḥarām - Raddan ʿalā Maqāl al-Ustādh Fahmī Huwaidī", *al-Shaʿb* (19 October 2001).

critique from others was his engagement with broader issues tied to the *fatwā*, such as the permissibility of living in "*dār al-shirk*" (the land of polytheism) and the implications of joining a non-Muslim army, even in the absence of direct hostilities with Muslims. al-Muqriʾ began by questioning the relevance of invoking the punishment for *ḥirāba*, arguing that even if the crime were proven, no legitimate authority exists to enforce it. He asserted that the *fatwā* effectively authorized the killing of innocent Muslims under the pretext of targeting the true perpetrators, and that the signatories contradicted the very *Qur'ānic* verse they cited, permitting bloodshed based on speculation rather than certainty.

According to al-Muqriʾ, the justifications offered by the *fatwā* for American Muslim soldiers could equally be used by the 9/11 perpetrators themselves. They might likewise claim that they acted to "cooperate in righteousness and piety," targeting nations occupying Muslim lands like Palestine and Iraq, and that they were unable to distinguish between combatants and civilians due to limited resources. al-Muqriʾ argued that the moral anguish felt by Muslim soldiers constitutes evidence that such participation is unlawful (*ḥarām*), citing *ḥadīth*s that emphasize the inner discomfort caused by sinful acts. For al-Muqriʾ, the *fatwā* went so far as to remove any ambiguity regarding allegiance to the state, ultimately legitimizing war against fellow Muslims and their killing.

al-Muqriʾ also criticized the *fatwā* not only in terms of content but also in its legal methodology. He argued that the general legal maxims invoked in the *fatwā* cannot function as independent legal instruments for addressing specific incidents. These maxims are often based on majority application (*aghlabī*) rather than being universally applicable (*kullī*), and thus cannot automatically apply to every particular case. Therefore, a valid *fatwā* must rest on clear, textual evidence (*dalīl ṣarīḥ*). He warned that relying solely on such maxims may result in erroneous legal conclusions, and even claimed that the *fatwā*'s invocation of necessity-based maxims actually contradicts the conclusions it draws.

al-Muqriʾ then questioned how al-Qaraḍāwī could reconcile this *fatwā* with his earlier declaration that cooperating with the U.S. against Afghanistan was categorically forbidden. He warned that the rationale used to justify Muslim soldiers' participation could be appropriated by Muslim governments, who might claim that refusing to support the U.S. would endanger their states or populations, thereby legitimizing collaboration. He asked which of the contradictory *fatwā*s Muslim soldiers should follow. He further challenged how al-Qaraḍāwī, who previously endorsed martyrdom operations in Palestine despite civilian casualties, could now support a *fatwā* whose logic would classify such actions in Palestine as *ḥirāba*, thus mandating severe punishment for their perpetrators.

al-Muqriʾ insisted that Muslim soldiers in the U.S. are not in a genuine state of necessity and he did not hesitate to offer them a path out of a "great *fitna* (sedition)." For him, even if necessity existed, Muslims must refuse to fight, sabotage their weapons if needed, and never kill fellow Muslims, because there is consensus (*ijmāʿ*) that, even under coercion, killing a Muslim is impermissible. al-Muqriʾ concluded that no excuse or justification can apply to Muslim soldiers in this case. In the end, like other critics, he called on the *fatwā*'s signatories to publicly retract their ruling.

Another popular critique of the *fatwā* came from Egyptian journalist and researcher Jamāl al-Sharqāwī, whose article appeared in *Majallat al-Sunna* in October 2001—a journal founded in

Birmingham by the renowned Syrian figure Muḥammad Surūr.[97] al-Sharqāwī began his critique by warning about the dangers of taking the *fatwā* lightly, asserting that the Islamic awakening has long suffered from such irresponsibility—especially when individuals unqualified to issue *fatwā*s address matters of such gravity. In his view, the lack of authoritative and trustworthy scholars has resulted in a state of "*fatwā* chaos," the most striking example of which is the confusion surrounding the position of Muslim soldiers.

He argued that although ʿAlwānī had respected institutions, *fatwā* councils, and scholars at his disposal, he ignored all of them and instead referred the question to someone with no scholarly expertise in *fatwā*s—namely, "the lawyer al-ʿAwwā". For al-Sharqāwī, this was the first "*sharʿī* violation." He further noted that al-ʿAwwā had faced many criticisms in the realms of theology and the Sunna. According to al-Sharqāwī, ʿAlwānī placed al-ʿAwwā in a difficult position by effectively compelling him to issue this "dangerous *fatwā*." Yet the chain of errors did not stop there. Instead of referring the matter to a *fatwā* committee recognized by the *ummah*, al-ʿAwwā escalated the issue further by consulting a journalist—Huwaidī. In al-Sharqāwī's words, "Had we not learned the details of what transpired from the published *fatwā* itself, we would have considered this entire episode either a joke or dark satire."

al-Sharqāwī claimed that while the appointment of Huwaidī—a journalist—as a *fatwā* authority in a matter so grave and dangerous was already scandalous, the chain of errors did not end there. "Just as this tragicomedy was nearing completion," he wrote, "al-ʿAwwā chose Haytham al-Khayyāṭ, an officer in the Ministry of Health, to contribute to the *fatwā*, even presenting him in the *fatwā* as a religious scholar." The final blunder, he argued, was al-Qaraḍāwī's response. In the face of growing backlash, al-Qaraḍāwī attempted to deflect criticism by claiming that the text of the *fatwā* had been written by al-ʿAwwā, not himself. But al-Sharqāwī rebuked this defense, stating that having read and signed the *fatwā*, al-Qaraḍāwī could not absolve himself of responsibility. He further emphasized that al-Qaraḍāwī's subsequent clarifications were effectively no different from the collective *fatwā* itself. What ultimately damaged al-Qaraḍāwī's standing, al-Sharqāwī asserted, was not only his refusal to retract the *fatwā* but also his insistence on shifting blame onto others.

For al-Sharqāwī, a *fatwā* that emerged from such a sequence of errors could only have led to one inevitable conclusion: "Losing a prestigious job in the American military or subjecting a Muslim citizen in the U.S. to public criticism is treated as the greater harm to be avoided, while the killing of innocent Muslim civilians is framed as the lesser harm that must be endured." He affirmed that the signatories of the *fatwā* bear responsibility before God for "rebellion against the *Sharīʿa*, indeed an assault on the very structure of Islamic jurisprudence."

Having launched a scathing critique of the signatories' authority, al-Sharqāwī began analyzing the *fatwā* itself, starting with the question and some key phrases in the *fatwā*'s wording. He drew attention to the expressions "and whatever else it may require" and "other Muslim regions," arguing that the first could include anything from torture to genocide, and the second implied that the war is not limited to Afghanistan but could extend across the Muslim world. For al-Sharqāwī, the questioner is essentially requesting a "carte blanche," and issuing the *fatwā* to that effect is tantamount to granting legitimacy for American missiles to be launched freely. He also focused on the phrase "against those whom their government has deemed responsible for

[97] Jamāl al-Sharqāwī, "ʿAn al-Fatwā al-Amrīkāniyya", *Majallat al-Sunna* 110 (2001), 73-78.

acts of terrorism" in the *fatwā*'s conclusion, which effectively grants absolute authority to the U.S. government to strike any country or group it labels as "terrorist." He argued that this language sends a message to Muslim soldiers: "There is no longer a need for our American Muslim brothers to suffer pangs of conscience or continually request *fatwā*s. A sweeping, forward-looking *fatwā* is now in place, permitting them to take part in any military operation against any Muslim country or group deemed 'terrorist' by the U.S. government."

He went on to critique the *fatwā*'s invocation of the Qurʾānic verse "cooperate in righteousness and piety" as a justification for participating in war. For him, what the signatories have labeled as "cooperation in righteousness and piety" has in fact resulted in "the killing of thousands of innocent civilians, the annihilation of entire villages, people being burned alive, and the destruction of mosques." He highlighted how the *fatwā* reassures Muslim soldiers that they bear no moral responsibility for these consequences, asserting that the nature of warfare makes no distinction between civilian and combatant. al-Sharqāwī also condemned the *fatwā*'s application of the principle of minimizing harm, noting that it privileges the risk to a Muslim's employment or patriotic image over the lives of Muslims in Afghanistan and beyond.

Particularly perplexed by al-Qaraḍāwī's support for the *fatwā*, al-Sharqāwī posed a series of veiled rhetorical questions aimed at him. He wrote that the *fatwā* gives the impression it was drafted by generals in the U.S. military to encourage Muslim soldiers to take part in war. He contrasted the *fatwā* with the conduct of non-Muslim American conscientious objectors during the Vietnam War, who, acting on conscience, accepted imprisonment or the loss of employment rather than take part in what they judged an unjust war. "And then," al-Sharqāwī lamented, "we Muslims came along and issued this shameful *fatwā*—a *fatwā* declaring that the enemy is whoever the U.S. deems, obedience belongs to whomever the U.S. designates, and *maṣlaḥa* is whatever the U.S. approves of. It is a *fatwā* that serves the desires of America."[98]

A highly emotional critique of the *fatwā* came on October 26 from Muḥammad ʿAbbās.[99] Unlike the other critics, ʿAbbās did not offer a *fiqh*-centered critique of the *fatwā*; instead, he critiqued it in light of concrete political realities. His emotionally charged tone permeates the entire piece. He opened by expressing deep admiration for al-Qaraḍāwī, recalling how he had long defended him and even once called for his appointment as caliph. Precisely because of this profound reverence, ʿAbbās was stunned that such a *fatwā* bore al-Qaraḍāwī's signature. He found it nearly inconceivable that al-Qaraḍāwī could issue such a *fatwā* and speculated that al-Qaraḍāwī must have been deceived or manipulated into signing it. According to him, al-Qaraḍāwī was unaware that the *fatwā* had been requested by the U.S. Department of Defense[100] and had fallen into the trap of a "salaried merciless person" who ensnared him into endorsing this "ill-fated *fatwā*."

Despite being caught in a swirl of emotional turmoil, ʿAbbās did not refrain from voicing his dismay. He insisted that, from scholars like al-Qaraḍāwī, Muslims had expected a *fatwā* that would forbid a soldier from obeying a commander's order to kill another Muslim—not a ruling

[98] al-Sharqāwī's article was also published in *al-Shaʿb* newspaper on 19 October. See. Jamāl al-Sharqāwī, "ʿAn al-Fatwā al-Amrīkāniyya", *al-Shaʿb* (19 October 2001).
[99] Muḥammad ʿAbbās, "Ilā al-Duktūr Yūsuf al-Qaraḍāwī Yā Mujaddid al-Dīn: Ilfiẓhā... fa-Innahā Masmūmah", *al-Shaʿb* (26 October 2001).
[100] As Nafi points out, "There is no evidence to suggest that the American Defense Department was involved in initiating Abdur-Rashīd's enquiry." See. Nafi, "*Fatwā* and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 79.

that would serve as a "life buoy" for the United States. He lamented that the *fatwā* undermined the credibility of three figures long regarded as authoritative voices in the Muslim world—al-Qaraḍāwī, al-Bishrī, and Huwaidī. Most troubling to him was the possibility that this *fatwā* would cause al-Qaraḍāwī to "lose the esteemed place he holds in the hearts of millions of Muslims."

While questioning the authority of the signatories and criticizing the *fatwā*, ʿAbbās drew heavily on al-Sharqāwī's arguments. He devoted considerable space to recounting the "atrocities" committed by the U.S. during the Gulf War in Iraq, as well as the ongoing bombardment and civilian casualties in Afghanistan. In his view, the *fatwā* ignores these historical realities. It effectively grants, he said, "an unrestricted license to kill Muslims," and that license would not be limited to Muslim soldiers in the U.S. Military. "Egypt, Jordan, or Turkey," he cautioned, "may use this *fatwā* as a pretext—first to strike Afghanistan, then Iraq, and later Lebanon, Syria, Iran, and the entire Muslim world." ʿAbbās concluded his critique with a heartfelt plea to the scholar he once admired: "O Yūsuf al-Qaraḍāwī... O son of Adam... O our shaykh... O our scholar... O you whom we love for the sake of God... This *fatwā* is poison—spit it out."

Egyptian Islamist Mamdūḥ Ismāʿīl launched a harsh critique of the *fatwā* in his column dated November 1, 2001.[101] His primary target, however, was not al-Qaraḍāwī but al-ʿAwwā—likely because al-ʿAwwā had authored the text of the *fatwā*. Ismāʿīl argued that al-ʿAwwā lacked the authority to issue *fatwā*s, referring to him as a "professor of law." He emphasized that al-ʿAwwā was a thinker, not a *faqīh*, and thus should not pronounce on legal matters. He even hinted at ulterior motives, asking why an American chaplain would bypass prominent scholars or institutions such as al-Azhar and instead go directly to al-ʿAwwā for guidance. Yet Ismāʿīl seemed unaware that the *fatwā* had also been circulated to other scholars and bodies by ʿAlwānī.

He began his substantive critique with the *fatwā*'s invocation of *ḥirāba*. Referring to the conditions stipulated in classical *fiqh* for the crime of *ḥirāba* to be established, he argued that it can only occur in the form of highway robbery, involving the use of weapons and taking place in areas far from urban centers—all conditions absent in the U.S. Moreover, Ismāʿīl emphasized that for the crime of *ḥirāba* to be legally established, *fiqh* also requires either a confession or the testimony of two credible witnesses before an Islamic court—conditions he maintained were not met, given the persistent doubts surrounding the identity of the perpetrators. He also criticized the *fatwā*'s use of the *Qurʿānic* directive to "cooperate in righteousness and piety," arguing that "the verse addresses cooperation among Muslims—not collaboration with the FBI or U.S. intelligence to track suspects."

In his view, al-ʿAwwā disregarded prophetic traditions prohibiting Muslims from fighting each other and ignored the consensus (*ijmāʿ*) that coercion is no excuse for killing a fellow Muslim. The *fatwā*, he claimed, effectively permitted American Muslim soldiers to kill Afghan Muslims to safeguard their careers. He also saw major flaws in how the *fatwā* applied the principle of necessity: it placed greater value on avoiding job loss or imprisonment for the Muslim soldiers than on Afghan Muslim lives—reducing the latter to second-class status. Finally, he faulted al-ʿAwwā for subordinating religious loyalty to national allegiance.

[101] Mamdūḥ Ismāʿīl, "al-Radd ʿalā Fiqh al-Fatwā al-Amrīkiyyah: Hal al-Muslimūn al-Amrīkiyyūn Ahamm min al-Muslimīn al-Afghān?" *al-Quds al-ʿArabī* (1 November 2001), 18.

The Egyptian Islamist ʿĀmir ʿAbd al-Munʿim, known for his ties to the Muslim Brotherhood, published a sharp critique of the *fatwā* on November 2.[102] Beginning his piece by drawing a clear dichotomy, ʿAbd al-Munʿim argued that the world had split into two camps following the events of 9/11: on one side stood the leaders of the Crusader war—namely, the U.S.-led global coalition and the hypocrites—while on the other stood the Islamic *ummah*, Afghanistan, and the Taliban. According to him, one must align with either side; any attempt at neutrality amounted to siding with the former. He stressed that the *fatwā* came at a time when voices—both Muslim and non-Muslim—were rising around the world in opposition to the war. He emphasized that the *fatwā* should not be issued merely to appease specific institutions or governments, arguing that the statement by al-Qaraḍāwī and his colleagues was essentially a political declaration rather than a genuine legal ruling. Referring to it as "a statement falsely presented as a *fatwā*," he criticized both al-Qaraḍāwī and Huwaidī for continuing to defend it even after its shortcomings had become evident.

ʿAbd al-Munʿim emphasized that, apart from al-Qaraḍāwī, the other signatories lacked the qualifications for issuing *fatwā*s and were merely intellectuals. Including such figures, he argued, elevated what was essentially a political statement into something more significant, seemingly aimed at signaling a message to specific parties. He also noted that all of the signatories resided outside the U.S., and consequently failed to consider the American context, where even figures like Muhammad Ali and Bill Clinton had supported conscientious objection during the Vietnam War. He further claimed that the *fatwā* went beyond merely legitimizing participation in specific military operations, effectively endorsing all of Bush's military campaigns under the guise of the "war on terror." Worse still, he continued, the *fatwā* became a dangerous precedent for Muslim soldiers globally, encouraging them to kill fellow Muslims merely to appease their governments.

For ʿAbd al-Mun ʿim, the invocation of the *ḥirāba* ruling in the *fatwā* was also "strange," as it was clear that the U.S. government had no intention of enforcing such a penalty. He criticized the prioritization of national allegiance over religious loyalty and used a provocative analogy: by the logic of the *fatwā*, Palestinian citizens of Israel should join Sharon's army to prove their allegiance by fighting so-called "terrorists" in the occupied territories. He also rejected the *fatwā*'s use of the *Qurʿānic* verse about "cooperation in righteousness and piety," sarcastically asking what kind of righteousness was being achieved through genocide against Afghan Muslims. Noting how the *fatwā* repeatedly emphasized avoiding harm to American Muslims while ignoring the suffering of Afghans, ʿAbd al-Munʿim denounced the position as racist. In his view, "a poor, disheveled man in the mountains of Afghanistan who struggles to find bread may be more beloved to God than a wealthy Muslim living in luxury in the world's richest country."

Finally, ʿAbd al-Munʿim invoked al-Qaraḍāwī's later defense of the *fatwā* using the concept of *fiqh al-muwāzanāt* (balancing benefit and harm), arguing that the true harm was the Crusader war on Afghanistan. In conclusion, he described the *fatwā* as a "dagger thrust into the heart of a united Islamic *ummah* standing against the Crusader war" and called on the signatories to repent without "arrogance or defensiveness."

[102] ʿĀmir ʿAbd al-Munʿim, "Bayān Siyāsī li-Irdāʾ Amrīkā wa-Laysa Fatwā", *al-Shaʿb* (2 November 2001).

8. Retracting the Fatwā or Deflecting Responsibility

In response to mounting criticism, Huwaidī broke his silence and published a column on October 29.[103] He claimed that the *fatwā* had actually been issued on September 27—before the war began—but had only been published one day after the war started. As a result, it was widely misunderstood as an endorsement of the war in Afghanistan and of killing Muslims. Huwaidī emphasized that all signatories had publicly expressed anti-war sentiments and that the *fatwā* had been deliberately misrepresented. He also voiced displeasure at the personal attacks targeting the signatories. According to him, the *fatwā* addressed a specific context—namely, the United States—and could not be applied to countries like Germany or Turkey. In seeking support for the *fatwā*, he pointed out that Mawlawī's later statement was not substantially different, and he also subtly responded to opposing *fatwā*s by figures such as ʿAlī Jumʿa, Ṣalāḥ Sulṭān, and al-Raysūnī.

Attempting to justify the *fatwā*, Huwaidī presented what he considered a paradox: such debates arise only when non-Muslims fight Muslims, not when Muslims fight one another. This, he argued, falsely implies that the former is more reprehensible than the latter, whereas intra-Muslim war is in fact far more grievous.[104] However, contrary to what Huwaidī claimed, there is a substantial difference between Mawlawī's later statement and the collective *fatwā*. Furthermore, Huwaidī's frustration over the *fatwā* being misunderstood due to its late release—despite having published it himself—seemed somewhat ironic.

A day later, on October 30, the editor of *al-Sharq al-Awsaṭ* announced that the signatories had retracted their opinion and were preparing to issue a new *fatwā* declaring it forbidden for Muslim soldiers to participate in the Afghanistan war. However, this new *fatwā* was never published.[105] The sudden change in their position may have stemmed from mounting backlash and the increasing reports of civilian casualties caused by U.S. forces in Afghanistan. Yet the absence of a new *fatwā* meant the retraction remained unknown to the public and effectively hidden.

Though Huwaidī defended the *fatwā* at the height of the controversy, none of the signatories made further statements for a long time. Over the years, however, various explanations surfaced from ʿAbd al-Rashīd and other signatories, revealing a clear effort to distance themselves from the *fatwā*'s responsibility. ʿAlwānī, despite dismissing Egypt's *al-Ahrām* newspaper's criticism

[103] Fahmī Huwaidī, "Rafʿ al-Iltibās fī Fatwā Mawqif al-ʿAskariyyīn al-Muslimīn fī al-Jaysh al-Amrīkī", *al-Sharq al-Awsaṭ* (29 October 2001). Huwaidī's article was published three days later in *al-Shaʿb* newspaper as well. However, the newspaper's reaction was far harsher than the footnote it had appended to his October 12 article publishing the collective *fatwā*. *al-Shaʿb* criticized Huwaidī severely for persisting in his position and failing to respond adequately to the criticisms they had published. The footnote concluded with the striking remark: "May God forgive you, O Huwaidī." Fahmī Huwaidī, "Rafʿ al-Iltibās fī Fatwā Mawqif al-ʿAskariyyīn al-Muslimīn fī al-Jaysh al-Amrīkī", *al-Shaʿb* (2 November 2001).

[104] Although Huwaidī's column was criticized by Sālim al-Shammarī, it is evident that he misunderstood Huwaidī's argument. See. Sālim al-Shammarī, "Layta Huwaidī wa-al-Qaraḍāwī Baqiyā ʿalā Fatwāhumā", *al-Sharq al-Awsaṭ* (3 October 2001).

[105] Given the *Wasaṭī* responses to the *fatwā* and the fact that the signatories of the collective *fatwā* retracted their opinions shortly thereafter, it becomes evident that Shavit's claim—that the *Wasaṭī* position on Muslim military participation in the Afghanistan war was initially positive but shifted during the Iraq War—is inaccurate (*Shari'a and Muslim Minorities: The Wasaṭī and Salafī Approaches to Fiqh al-Aqalliyyat al-Muslima*, 232-234). As demonstrated above, the general *Wasaṭī* stance on this issue was consistently negative, and even those who initially considered the participation of Muslim soldiers permissible did not wait for the Iraq War to withdraw from their earlier position on the *fatwā*. Although Shavit cites Mawlawī and ʿAlī Jumʿa—both of whom issued *fatwā*s prohibiting Muslim soldiers from participating in the Iraq War—as supporting his position, the fact that both scholars had issued similar *fatwā*s regarding the war in Afghanistan undermines his argument. Shavit, like Stark, relied specifically on the English translation of Mawlawī's *fatwā* published on October 16, 2001—though the *fatwā* itself was issued on October 3—to suggest that Mawlawī had refrained from issuing a decisive ruling regarding the participation of American Muslim soldiers in the Afghanistan war. However, Mawlawī's October 18 *fatwā* clearly condemned the collective *fatwā* and prohibited Muslim participation—reaffirming, rather than reversing, his earlier view during the Iraq War. The same applies to ʿAlī Jumʿa. In sum, the majority of *Wasaṭī* scholars adopted a clear and consistent opposition to Muslim military participation in the Afghanistan War and maintained this position during the Iraq War, contrary to Shavit's assertion.

of the collective *fatwā* as "too petty to warrant comment," still felt compelled to respond. In a detailed recounting of events, he said they had opted for the collective *fatwā* because it better suited the American context and helped American Muslims "breathe easier." He added that calling for general conscientious objection, "as some had suggested," revealed a misunderstanding of the U.S. context. Since the Vietnam War, he said, soldiers were required to obey orders absolutely, and refusal could result in harsh punishment. Thus, he argued that issuing a *fatwā* based on general conscientious objection was unrealistic.[106] Yet this argument starkly contradicts ʿAlwānī's public statements, where he frequently invoked the notion of general conscientious objection. This clear inconsistency suggests that ʿAlwānī had strategically deployed the notion at the time to shield himself from criticism.

In contrast, al-Qaraḍāwī later offered a more explicit retraction. He asserted that the *fatwā* was neither originally directed to him nor authored by him, and that he never adopted it nor published it in any of his works. According to him, the question should have been answered by ʿAlwānī, who was more familiar with the American context. Instead, ʿAlwānī passed the question along to the rest of them, seemingly to shift the burden of responsibility. al-Qaraḍāwī claimed he had been warned that Muslim soldiers would face serious consequences—such as persecution similar to that faced by Bosnians—if they refused to serve. Their mosques and institutions might be destroyed, so he signed the *fatwā* out of extreme concern. However, he later realized he had misunderstood the American legal environment and conceded that general conscientious objection was, in fact, a viable option that would neither pose any hardship for the soldiers themselves nor cause any harm to the broader Muslim community. He therefore retracted the *fatwā*, expressed regret for his participation, and sought forgiveness from God.[107] Despite his later efforts to deny involvement, al-Qaraḍāwī's subsequent remarks aimed at defending the *fatwā* reveal that he had, at one point, fully supported it. His retrospective statements reflect an attempt to distance himself from accountability while shifting the blame onto others.

ʿAbd al-Rashīd reconstructed the *fatwā* process to absolve himself of responsibility. In a radio interview where he was asked to recount the events surrounding the *fatwā*, he said that the *fatwā* was attributed to him, though this, he insisted, was not true. According to his account, during one of his regular offline conversations with ʿAlwānī, ʿAbd al-Rashīd had merely asked how best to respond to young Muslim soldiers who might raise such concerns—not how to act in such a situation himself. ʿAbd al-Rashīd asserted that no Muslim soldier had experienced a moral crisis over the prospect of going to Afghanistan and fighting fellow Muslims. Rather, he claimed, their primary concern was how they would be perceived by Islamic circles within the United States.[108] However, these claims stand in direct contradiction to both ʿAbd al-Rashīd's statements to the media shortly after 9/11 and to ʿAlwānī's own account of events. In response to another question concerning the *fatwā*, ʿAbd al-Rashīd—like Huwaidī—lamented that debates tend to focus exclusively on Muslim participation in non-Muslim armies against fellow Muslims,

[106] ʿAlwānī, "al-Baghī wa-al-Irjāf".
[107] Ṣalāḥ Sulṭān, "Bayna al-Tilmīdh wa-al-Ustādh Mawāqif Lā Tunsā" (24 July 2007); al-Qaraḍāwī, *al-Fatāwā al-Shādhdha*, 124-126; Yūsuf al-Qaraḍāwī, "al-ʿĀlam al-Islāmī bi-Hāja li-Inshāʾ Maʿāhid ʿUlyā li-l-Iftāʾ li-l-Qaḍāʾ ʿalā Fawḍā al-Fatāwā" (Interviewer: Jābir al-Ḥaramī, Transcript, 29 March 2015); Waṣfī ʿĀshūr Abū Zayd, *al-Maqāṣid al-Juzʾiyya* (Cairo: Dār al-Maqāṣid li-al-Ṭibāʿa wa-al-Nashr wa-al-Tawzīʿ, 2015), 19-20; Yūsuf al-Qaraḍāwī, "Murājaʿāt maʿa al-Shaykh Yūsuf al-Qaraḍāwī - al-Halqa 28" (Interviewer: ʿAzzām Tamīmī, Video Recording, 3 July 2016).
[108] Muhammad, "Serving Country, Serving Allah" (Interview 26 May 2005).

while far less attention is devoted to the killing of Muslims by other Muslims in Syria or other parts of the Islamic world.[109]

Conclusion

In the classical period, the *fatwā* was primarily an interaction between the *muftī* and the *mustaftī*, typically taking place on a personal level and shaped by highly localized, temporal, and contextual concerns. However, in the modern era—especially with the rise of digital media and global communication technologies—this traditional structure has undergone profound transformation. Today, *fatwā*s are often published online, discussed in mass media, and addressed not just to individuals or specific communities, but to Muslims across the globe. As a result, the *fatwā* has assumed a globalized and mediatized character, transcending geographical and cultural boundaries. It is no longer merely a legal opinion; it has become a social declaration, an ideological stance, and a powerful tool in the reconstruction of religious identity.[110]

While this globalization of the *fatwā* has enabled broader outreach and greater engagement, it has also given rise to what might be described as a "*fatwā* chaos" or "*fatwā* cacophony."[111] The use of media to issue *fatwā*s has led to a significant relaxation of the scholarly requirements traditionally expected of a *muftī*—such as mastery of *furūʿ al-fiqh* and expertise in *uṣūl al-fiqh*. As a result, individuals lacking traditional religious training but possessing strong communication skills and media presence have increasingly begun to assume the role of *muftī*. This shift has radically altered the sources of both authority and legitimacy in the production and dissemination of religious knowledge.[112]

These dynamics become especially visible during times of crisis. The collective *fatwā* issued in the aftermath of the 9/11 attacks regarding Muslim American soldiers offers a compelling case study. While the collective *fatwā* can be interpreted as an attempt to address the moral and legal dilemmas faced by Muslim soldiers in the United States, both its content and the manner in which it was produced reveal deeper structural issues within contemporary *fatwā* practice. For instance, five of the signatories did not reside in the U.S., raising questions about their awareness of the American social and political context. Moreover, the inclusion of individuals such as journalist Huwaidī and physician Haytham al-Khayyāṭ, who lacked formal religious education, indicates that the *fatwā* was not solely the product of scholarly deliberation but rather the outcome of a multilayered process shaped by a range of actors during a moment of crisis.

The rhetorical strategies employed by the signatories to justify their ruling—despite their limited familiarity with the American context—and the contradictions evident in their subsequent statements highlight the fragility of contemporary *fatwā* authority. A clear example of this dissonance lies in their public emphasis on the concept of general conscientious objection, while the text of the *fatwā* itself prioritized state allegiance and did not offer Muslim soldiers a genuine moral choice. Their eventual retraction of the *fatwā* barely a month later further demonstrates that the ruling had been shaped by short-term sensitivities rather than consistent scholarly reasoning.

[109] Stark, *Looking for Leadership: Discovering American Islam in the Muslim Chaplaincy*, 246.
[110] For a seminal work on this subject, see. Gary R. Bunt, *Islam in the Digital Age: E-Jihad, Online Fatwās, and Cyber Islamic Environments* (London: Pluto Press, 2003).
[111] Jakob Skovgaard-Petersen, "A Typology of Fatwās", *Die Welt des Islams* 55/3-4 (2015), 282-283.
[112] Amamur Rohman Hamdani, "Fatwā in the Digital Age: Online Muftī, Social Media, and Alternative Religious Authority", *Hikmatuna: Journal for Integrative Islamic Studies* 9/1 (2023), 52-63; Black et al., *Modern Perspectives on Islamic Law*, 99-100.

Another striking aspect of the *fatwā* is its disregard for any particular *madhhab*, overlooking the juristic depth developed within the frameworks of *dār al-Islām* and *dār al-ḥarb* in the classical period. Muslim jurists often debated the legitimacy of residing in non-Muslim territories, generally discouraging permanent settlement.[113] Consequently, the idea of Muslims fighting alongside non-Muslim armies was rarely conceptualized—not because the issue was irrelevant, but because the prevailing consensus held that, even under coercion, killing another Muslim remained impermissible, rendering further elaboration unnecessary. Nonetheless, jurists—albeit to a limited extent—across the major schools did address the conduct of Muslims under non-Muslim lands within this framework. *Ḥanafī* authorities, for instance, maintained that Muslims residing in *dār al-ḥarb* were categorically forbidden from participating in hostilities against fellow Muslims. Even when facing the threat of death, active combat was prohibited, though conditional defensive resistance might be permitted against other non-Muslim enemies for self-protection.[114] Imām Mālik similarly held that Muslims under non-Muslim rule must reject any summons to join the host ruler's military campaigns.[115] Ibn Ḥazm went further, considering it disbelief for anyone who aided non-Muslims against Muslims, even indirectly.[116] The *fatwā*, however, effectively dismissed the deep-seated ethical concerns and disregarded the methodological coherence of the traditional juristic legacy, replacing them with an immediate political pragmatism.

The *fatwā* not only bypassed Islamic legal thought but also appealed directly to scriptural sources, favoring a *maqāṣid*-cum-*ḍarūra* reasoning and the application of general legal maxims as independent sources. Indeed, jurists did not accept *maqāṣid* and *maṣlaḥa* as stand-alone sources of law, and they warned against deriving rulings solely from general maxims and issuing *fatwās* grounded primarily upon them.[117] However, the signatories set aside these principles, acting contrary to the classical juristic tradition. This choice reflects the growing gap between classical legal heritage and contemporary *fatwā* production, wherein *maqāṣid* theory and legal maxims have become a popular framework for addressing modern crises. Yet, as this case shows, an overreliance on such tools risks diluting legal methodology and undermines the formation of systematic, coherent, and grounded rulings.[118] The inconsistencies and contradictions exhibited by the signatories throughout the process expose the inherent

[113] Indeed, although the majority of jurists considered it permissible for a Muslim to reside in *dār al-ḥarb* under certain conditions—such as being able to manifest their religion and avoid the loss of religion—they still regarded migration from there to *dār al-Islām* as recommended (*mustaḥabb*). For example, see. Abū Isḥāq al-Shīrāzī, *al-Muhadhdhab fī Fiqh al-Imām al-Shāfiʿī*, critical ed. Zakariyyā ʿUmayrāt (Beirut: Dār al-Kutub al-ʿIlmiyya, n.d.), 3/265; Muwaffaq al-Dīn Ibn Qudāmah, *al-Mughnī*, critical ed. ʿAbd al-Muḥsin al-Turkī - ʿAbd al-Fattāḥ Muḥammad al-Ḥulw (Riyadh: Dār ʿĀlam al-Kutub, 1997), 13/151; Shams al-Dīn al-Ramlī, *Nihāyat al-Muḥtāj* (Beirut: Dār al-Fikr, 1984), 8/82. It should be noted here that the concepts of *dār al-Islām* and *dār al-ḥarb*, which emerged in the classical period, cannot be directly applied to modern nation-states. For the most comprehensive work on modern debates over the concept of *dār*, see. Sarah Albrecht, *Dār al-Islām Revisited - Territoriality in Contemporary Islamic Legal Discourse on Muslims in the West* (Leiden: Brill, 2018).

[114] Muḥammad b. al-Ḥasan Shaybānī, *al-Siyar al-Ṣaghīr*, critical ed. Majīd Khaddūrī (Beirut: Dār al-Muttaḥidah li-l-Nashr, 1975), 196; Shams al-Aʾimmah Sarakhsī, *al-Mabsūṭ* (Cairo: Maṭbaʿat al-Saʿādah, 1989), 10/97-98; Shams al-Aʾimmah Sarakhsī, *Sharḥ al-Siyar al-Kabīr*, critical ed. Muḥammad Ḥasan Shāfiʿī (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997), 4/252-253.

[115] Abū Saʿīd Sahnūn, *al-Mudawwanah al-Kubrā* (Beirut: Dār al-Kutub al-ʿIlmiyya, 1994), 1/518.

[116] Abū Muḥammad Ibn Ḥazm, *al-Muḥallā*, critical ed. ʿAbd al-Ghaffār Sulaymān al-Bandārī (Beirut: Dār al-Kutub al-ʿIlmiyya, 1988), 12/125-126. On the other hand, leading contemporary authorities in the field of *fiqh al-aqalliyyāt* likewise adopt this position. See. Khālid ʿAbd al-Qādir, *Fiqh al-Aqalliyyāt al-Muslima* (Tripoli: Dār al-Īmān, 1998), 621-622; Sulaymān Muḥammad Tūbūlyāk, *al-Aḥkām al-Siyāsiyya li'l-Aqalliyyāt al-Muslima fī al-Fiqh al-Islāmī* (Beirut: Dār al-Nafāʾis, 1997), 121-129.

[117] For example, see. Abū al-Maʿālī al-Juwaynī, *Ghiyāth al-Umam fī Iltiyāth al-Ẓulam*, ed. ʿAbd al-ʿAẓīm al-Dīb (Cairo: Maktabat Imām al-Ḥaramayn, 1981), 499; Aḥmad b. Muḥammad al-Ḥamawī, *Ghamz ʿUyūn Al-Baṣāʾir fī Sharḥ al-Ashbāh wa'n-Naẓāʾir* (Beirut: Dār al-Kutub al-ʿIlmiyya, 1985), 1/37.

[118] Although Nafi claims that the critics of the *fatwā* overlooked legal principles and failed to relate scriptural evidence to reality and context—unlike al-Qaraḍāwī and his colleagues, whom he sees as more balanced—this assessment is clearly inaccurate. See. Nafi, "Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11", 114-115.

challenges of producing a *madhhab*-transcending approach and *maqāṣid*-centered jurisprudence—especially when coupled with the decisive use of general legal maxims as functionally independent sources.

In conclusion, the collective *fatwā* analyzed in this article is not merely a legal verdict—it is also a case study that lays bare pressing issues in contemporary Islamic thought, particularly regarding identity, loyalty, and religious authority.[119] As the case illustrates, the signatories prioritized national allegiance over religious loyalty, relegating the Muslim individual's connection to the *ummah* to a secondary status. This was not simply a pragmatic move in response to political pressures; it also reveals the transformative influence of the modern nation-state on Muslim thinking and identity. The attempt to reconcile national allegiance with religious loyalty remains one of the most fundamental and unresolved challenges in modern Islamic discourse. When this balance fails, the notion of the *ummah* is displaced by a nation-state-centric religious imagination—fracturing both the legitimacy of Islamic legal discourse and the coherence of religious identity.

[119] For this reason, the *fatwā* has been subject to criticism on various occasions over the years. The well-known Syrian *Salafī* figure Muṣṭafā Ḥalīmah, known by the alias Abū Baṣīr al-Ṭarṭūsī, discussed the *fatwā* at length when listing his reasons for declaring al-Qaraḍāwī an unbeliever. However, he appears unaware that al-Qaraḍāwī later retracted the *fatwā*. See. ʿAbd al-Munʿim Muṣṭafā Ḥalīmah, "Limādhā Kaffartu Yūsuf al-Qaraḍāwī..?", *Tartosi Blogspot* (1 November 2008). A similar situation seems to apply to Ayman al-Ẓawāhirī, who also criticized al-Qaraḍāwī over the *fatwā*. See. Ayman al-Ẓawāhirī, *Fursān taḥta Rāyat al-Nabī* (s.l.: Muʿassasat as-Ṣaḥāb al-Iʿlāmī, 2010), 255-258. The fact that a detailed commentary on al-Muqriʾ's criticism of the *fatwā* was written a decade later highlights the *fatwā*'s long-lasting resonance. See. ʿAlī ibn Nāyif al-Shuḥūd, *al-Mushāraka fī Juyūsh al-Mushrikīn Ḍidd al-Muslimīn Ḥarām* (s.l.: s.n., 2011).

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Appendix: Original Copy of The *Fatwā*[*]



بسم الله الرحمن الرحيم

هذا جواب عن الاستفتاء المقدم من السيد / جمال محمد عبد الرشيد ، أقدم المرشدين الدينيين المسلمين في الجيش الأمريكي ، حول مدى جواز مشاركة العسكريين المسلمين في الجيش الأمريكي في المهمات القتالية وسائر ما تتطلبه في أفغانستان وغيرها من بلاد المسلمين .

ويقول في استفتائه إن أهداف هذه العمليات هي :

١. الانتقام من الذين " ربما أنهم شاركوا " في تدبير وتمويل العمليات الانتحارية التي نفذت في الحادي عشر من سبتمبر ضد أهداف مدنية وعسكرية في كل من نيويورك وواشنطن (وشرح ما اشتملت عليه هذه العمليات) .

٢. القضاء على العناصر التي لجأت إلى الأراضي الأفغانية وغيرها ، وإخافة سائر الحكومات التي تتساهل في إيواء أمثال هؤلاء ، وتمكنهم ، أو تعطيهم فرص التمكن ، من التدريب على فنون القتال ، والانطلاق نحو أهدافها في العالم .

٣. إعادة الهيبة والاحترام للولايات المتحدة باعتبارها قطباً عالمياً منفرداً .

ويختتم استفتاءه بقوله إن العسكريين المسلمين في الجيش الأمريكي يقرون الثلاثة لا يقلون عن خمسة عشر ألفاً ، وإنهم قد لا يتاح لهم ، إذا لم يقبلوا المشاركة في العمليات القتالية المذكورة ، إلا الاستقالة وفيها ما فيها في الظروف الراهنة ، ويسأل أخيرا : **هل يجوز لمن يستطيع منهم أن يطلب تحويله إلى الخدمات الأخرى غير القتال المباشر ؟**

والجـــــواب

بعد حمد الله والصلاة والسلام على رسول الله ؟ نقول :

إن هذا السؤال يعرض قضية شديدة التعقيد وموقفاً بالغ الحساسية يواجهه إخواننا العسكريون المسلمون في الجيش الأمريكي ، وفي غيره من الجيوش التي قد يوضعون فيها في ظروف مشابهة .

والواجب على المسلمين كافة أن يكونوا يداً واحدة ضد الذين يروّعون الآمنين ويستحلون دماء غير المقاتلين بغير سبب شرعي . لأن الإسلام حرّم الدماء والأموال حرمة قطعية إلى يوم القيامة . قال تعالى : « *من أجل ذلك كتبنا على بني إسرائيل أنه من قتل نفساً ، بغير نفس أو فساد في الأرض ، فكأنما قتل الناس جميعاً ، ومن أحياها فكأنما أحيا الناس جميعاً ، ولقد جاءتهم رسلهم بالبينات ثم إن كثيرا منهم بعد ذلك في الأرض لمسرفون* » . (المائدة : ٣٢)

فمن خالف النصوص الإسلامية الدالة على ذلك فهو عاصٍ مستحق للعقوبة المناسبة لنوع معصيته وقدر ما ترتب عليها من فساد أو إفساد .

[*] The original copy of the *fatwā* was published by Charles Kurzman. See. https://kurzman.unc.edu/islamic-statements-against-terrorism/qaradawi/

ويجب على إخواننا العسكريين المسلمين في الجيش الأمريكي أن يجعلوا موقفهم هذا ـ وأساسه الديني ـ معروفين لجميع زملائهم ورؤسائهم وأن يجهروا به ولا يكتموه لأن في ذلك إبلاغاً لجزء مهم من حقيقة التعاليم الإسلامية طالما شوهت وسائل الإعلام صورته أو أظهرته على غير حقيقته .

ولو أن هذه الأحداث الإرهابية التي وقعت في الولايات المتحدة الأمريكية عوملت بمقتضى نصوص الشريعة وقواعد الفقه الإسلامي لكان الذي ينطبق عليها هو حكم جريمة الحرابة ، الوارد في سورة المائدة ، في قول الله تبارك وتعالى :

« إنما جزاء الذين يحاربون الله ورسوله ويسعون في الأرض فساداً ، أن يقتّلوا ، أو يصلّبوا ، أو تقطّع أيديهم وأرجلهم من خلاف ، أو ينفوا من الأرض ، ذلك لهم خزي في الدنيا ، ولهم في الآخرة عذاب عظيم .إلا الذين تابوا من قبل أن تقدروا عليهم فاعلموا أن الله غفور رحيم». (الآيتان ٣٣و ٣٤)

ولذلك فإننا نرى ضرورة البحث عن الفاعلين الحقيقيين لهذه الجرائم ، والمشاركين فيها بالتحريض والتمويل والمساعدة ، وتقديمهم لمحاكمة منصفة تنزل بهم العقاب المناسب الرادع لهم ولأمثالهم من المستهينين بحياة الأبرياء وأموالهم والمروّعين لأمنهم .

وهذا كله من واجب المسلمين المشاركة فيه بكل سبيل ممكنة ، تحقيقاً لقول الله تعالى :

«وتعاونوا على البر والتقوى ولا تعاونوا على الإثم والعدوان » (سورة المائدة : ٢) .

ولكن الحرج الذي يصيب العسكريين المسلمين في مقاتلة المسلمين الآخرين مصدره أن القتال يصعب ـ أو يستحيل ـ التمييز فيه بين الجناة الحقيقيين المستهدفين به وبين الأبرياء الذين لا ذنب لهم فيما حدث . وأن الحديث النبوي الصحيح يقول : «إذا تواجه المسلمان بسيفيهما فقتل أحدهما صاحبه فالقاتل والمقتول في النار ، قيل هذا القاتل فما بال المقتول ؟ قال : قد أراد قتل صاحبه » . (رواه البخاري ومسلم) .

والواقع أن الحديث الشريف المذكور يتناول الحالة التي يملك فيها المسلم أمر نفسه فيستطيع أن ينهض للقتال ويستطيع أن يمتنع عنه ، وهو لا يتناول الحالة التي يكون المسلم فيها مواطنا و جندياً في جيش نظامي لدولة ، لا يملك إلا أن يلتزم بطاعة الأوامر الصادرة إليه وإلا كان ولاؤه لدولته محل شك، مع ما يترتب على ذلك من أضرار عديدة . ذلك أنه لا يستطيع أن يتمتع بحقوق المواطنة دون أن يؤدي الالتزامات المترتبة عليها .

ويتبين من ذلك أن الحرج الذي يسببه نص هذا الحديث الصحيح ، وأمثاله ، إما أنه مرفوع ، وإما أنه مغتفر في جنب الأضرار العامة التي تلحق مجموع المسلمين في الجيش الأمريكي ، بل وفي الولايات المتحدة بوجه عام ، إذا أصبحوا مشكوكاً في ولائهم لبلدهم الذي يحملون جنسيته، ويتمتعون فيه بحقوق المواطنة ، وعليهم أن يؤدوا واجباتها .

وأما الحرج الذي يسببه كون القتال لا تمييز فيه فإن المسلم يجب عليه أن ينوي بمساهمته في هذا القتال أن يحق الحق ويبطل الباطل ، وأن عمله يستهدف منع العدوان على الأبرياء أو الوصول إلى مرتكبيه لتقديمهم للعدالة . وليس له شأن بما سوى ذلك من أغراض للقتال قد تنشئ لديه حرجاً شخصياً ، لأنه لا يستطيع وحده منعها ولا تحقيقها ، « وإنما الأعمال بالنيات » . والله تعالى لا يكلف نفساً إلا وسعها ، والمقرر عند الفقهاء أن ما لا يستطيعه المسلم فهو ساقط عنه لا يكلف به لقول الله تعالى : « فاتقوا الله ما استطعتم » (التغابن : ١٦) ولقول الرسول ﷺ " إذا أمرتكم بشيء فأتوا منه ما استطعتم ." وإنما المسلم هنا جزء من كل لو خرج عليه لترتب على خروجه ضرر ، له ولجماعة المسلمين في بلده ، أكبر كثيرا من الضرر الذي يترتب على مشاركته في القتال .

والقواعد الشرعية المرعية تقرر أنه " إذا اجتمع ضرران ارتكب أخفهما " فإذا كان يترتب على امتناع المسلم عن القتال في صفوف جيشه ضرر على جميع المسلمين في بلاده ــ وهم ملايين عديدة ــ وكان قتاله سوف يسبب له ، هو ، حرجاً أو أذى روحياً ونفسياً فإن الضرر الخاص يُتحمل لدفع الضرر العام " كما تقرر القاعدة الفقهية الأخرى .

وإذا كان العسكريون المسلمون في الجيش الأمريكي يستطيعون طلب الخدمة ــ مؤقتا في أثناء هذه المعارك الوشيكة ــ في الصفوف الخلفية للعمل في خدمات الإعاشة وما شابهها ــ كما ورد في السؤال ــ دون أن يسبب لهم ذلك ، ولا لغيرهم من المسلمين الأمريكيين ، حرجاً ولا ضرراً فإنه ينبغي لهم هذا الطلب ، أما إذا كان هذا الطلب يسبب ضررا أو حرجاً يتمثل في الشك في ولائهم ، أو تعريضهم لسوء ظن ، أو لاتهام باطل ، أو لإيذائهم في مستقبلهم الوظيفي ، أو للتشكيك في وطنيتهم ، وأشباه ذلك ، فإنه لا يجوز عندئذ هذا الطلب .

والخلاصة أنه لا بأس ــ إن شاء الله ــ على العسكريين المسلمين من المشاركة في القتال في المعارك المتوقعة ضد من تقرر دولتهم أنهم يمارسون الإرهاب ضدها ، أو يؤون الممارسين له ، ويتيحون لهم فرص التدريب والانطلاق من بلادهم ، مع استصحاب النية الصحيحة على النحو الذي أوضحناه ، دفعاً لأي شبهة قد تلحق بهم في ولائهم لأوطانهم ، ومنعاً للضرر الغالب على الظن وقوعه ، وإعمالا للقواعد الشرعية التي تبيح بالضرورات ارتكاب المحظورات وتوجب تحمل الضرر الأخف لدفع الضرر الأشد .

والله تعالى أعلم وأحكم .

١٠ من رجب الفرد ١٤٢٢ هـ

٢٠٠١/٩/٢٧م

د. يوسف القرضاوي

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