Middle East
Institute

JUSTIFYING RELATIONS WITH AN APOSTATE DURING A JIHĀD
A SALAFI-JIHĀDIST GROUP'S RELATIONS WITH TURKEY IN SYRIA

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CONTENTS

SUMMARY

Several months after formally breaking with al-Qaeda in January 2017, the Salafi-Jihadist group Hayat Tahrir al-Sham (HTS) deviated significantly from its prior methodology when it gave the Turkish Army access to portions of territory it controlled in Syria. Though HTS was careful to avoid direct military collaboration with Turkey, it welcomed the Turkish Army's presence as an additional force against the Syrian regime and secular opposition groups. This caused a significant rift among the group's supporters and the al-Qaeda community, who accused HTS of thwarting its own *jihād* by forming relations with Turkey, considered by Salafi-Jihadists to be an apostate.

This analysis aims to explain how HTS has legally justified its relations with Turkey. After outlining key legal terms and the group's creed, I argue that under the doctrine of loyalty and disavowal and the doctrine of necessity, HTS is in fact able to legally justify relations with an apostate during *jihād*. However in doing so, the group is unable to reconcile its own methodological deviance, in which forgoing doctrinal purity for military pragmatism appears to be undermining the objective of its own *jihād*. The experience of HTS suggests broader trends within Sunni jihadism, where jihadist groups are moving away from the al-Qaeda model of methodological puritanism in favor of more flexible decision-making. It also suggests that successful U.S. counterterrorism policy will capitalize on the risks this flexibility entails by bolstering opposition groups and delegitimizing jihadists' co-optation of nationalist causes.

INTRODUCTION

On Jan. 28, 2017 Jabhat Fataḥ al-Sham (JFS), al-Qaeda's affiliate in Syria, announced it was cutting ties with al-Qaeda and leading a new merger project called Hay'at Taḥrīr al-Shām (HTS), or "Organization for the Liberation of the Levant."[1] The group claimed that severing ties from al-Qaeda was critical "to broaden the appeal of [its] jihadi project to … save [the] armed struggle."[2] It pursued several significant doctrinal breaks with al-Qaeda, but its decision to cooperate with Turkey, considered an apostate and an unbeliever by most Sunni jihadist groups, was its most controversial, and is a decision that is still having an impact on the world stage.[3] Following its decision, the group was forced to defend itself against al-Qaeda loyalists who accused it of violating the doctrine of loyalty and disavowal (*al-wala' wa-l-bara'*), a core tenant of Salafi Jihadism, and diluting its methodology (*manhāj*) in waging its *jihād*, an accusation the group claims it can circumvent through the doctrine of necessity (*Ḍarūra*) and the concept of "*Shariah* governance" (*siyāsa Shariah*). Through analysis of the group's publicized debates with al-Qaeda loyalists, it does not appear that HTS violates its own stated principles or creed, nor is it considered an unbeliever for its relations with Turkey. Far more damning, however, is that its relationship with Turkey appears to threaten the sustained existence of its *jihād*.

This study does not aim to make normative claims about the religious status of the group in question. Moreover, it is confined to a small sect of Sunni Islam and may not be extended to other sects, nor the entire religion of Islam. Rather, this analysis aims to elucidate an important debate among Salafi-Jihadist groups about whether the end purpose of a *jihād* can justify the means of getting there, including relations with apostate and/or unbelieving entities. HTS remains an important group to study as it is, as of early 2019, the most powerful Islamist group in Syria, controlling most of north-western Syria, the last major opposition stronghold, and its relations with Turkey remain a major sticking point in international negotiations to end the war. Yet little has been done to analyze its relations from an Islamic law perspective, or from the perspective of HTS itself. More broadly, HTS' shift seems to reflect a movement by many current Salafi-Jihadist groups to broaden the scope of acceptable methodology within a *jihād* in the midst of war, doctrinal purity being foregone for tactics which use the promise of victory as justification, including relations with apostate, unbelieving entities. This trend could affect al-Qaeda's operational capabilities and increase the attractiveness of leadership that is more flexible in its decision-making. The outcome of HTS' *jihād* in Syria and its gamble with Turkey will not go unnoticed, and will likely drive Salafi-Jihadist decision-making for some time to come. It also raises a more

MAP OF TURKISH DE-ESCALATION ZONE

SURIYE GÜNDEMI
IDLIB
March 8, 2019

Reyhanli

Nubi

El Bab

Aleppo

Al Safirah

Idlib

Al Eis

Hansar

Tal Tukan

Ebu Zuhur

Isabrak Dagi

Surman

Ebu Dali

Arima

Al Hawaiz

Morek

Suran

Muhrada

Banyas

Hama

Maysaf

Opposition
Regime
SDF/ YPG
Demilitarized zone

Turkish Observation Posts

Russian Observation Posts

Source: *Suriye Gündemi* | Redesign by: *Sallie Bestul*
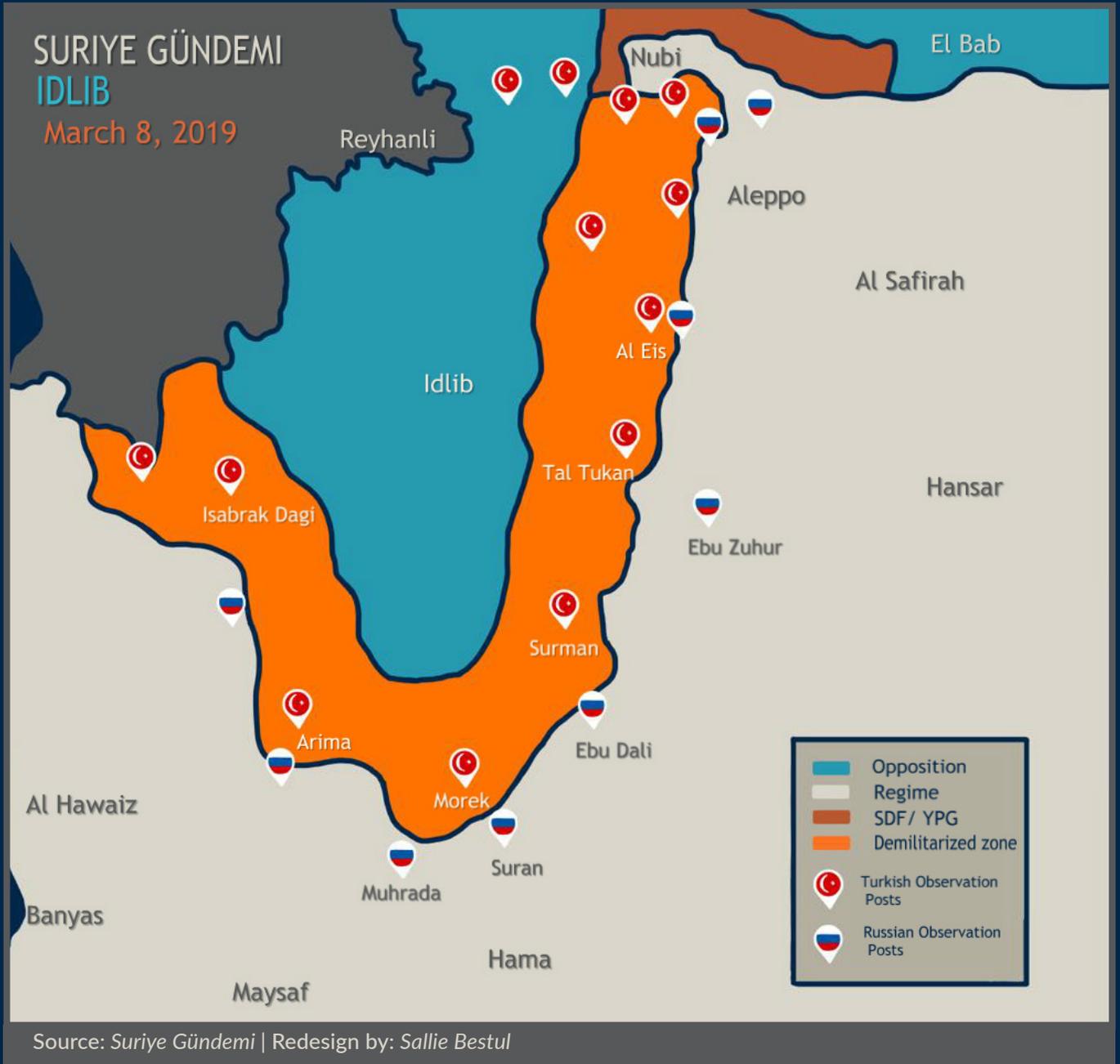
fundamental question: if winning drives decision-making, then what does winning actually look like?

DEFINITIONS

JIHĀD

The word *jihād* is derived from the verb *jahada*, which means "to exert."[4] I will rely on Majid Khadduri's jurisprudential definition of *jihād*, the "exertion of one's power in Allah's path," with the goal to "spread … belief in Allah and … to mak[e] His word supreme."[5] Its purpose is to spread the word of God, meaning it cannot be waged for any purpose other than to make the word of God supreme. *Jihād* is considered one of two forms of just wars, according to Ibn Khaldun, the other being war against rebels or dissenters.[6] 13th century scholar Ibn Taymiyya, who later influenced neo-Hanbalis and Salafi-Jihadists, professed that departure from the *Shariah* is grounds for waging *jihād* if that person or group fights Muslims when they seek to spread the word of God through "word or act," even if that person is Muslim.[7] His interpretation is often used by Salafi-Jihadist groups as justification for waging armed *jihād* against unbelievers.[8] There are a number of Quranic injunctions for fighting polytheists,[9] though importantly there is no clear definition of who, exactly, polytheists are.[10] Moreover, there is a lack of specificity when it comes to defining the proper methodology of waging an armed *jihād*, other than that it must be fought "in the path of God." [11]

APOSTASY AND UNBELIEF

There are two words used by both HTS and al-Qaeda to describe Turkey. One is apostate, or *murtadd*, and the second is *kāfr*, or unbeliever. Each has distinct meanings in Islamic jurisprudence. The noun *rida*, from the root verb of apostate, means "an explicit retreat from and abandonment of Islam after one's having entered it … to unbelief."[12] *Irtadda*, the reflexive verb form of *rida*, means "to shift, switch or change."[13] It's used in the Qur'an to describe those who turn their backs on Islam.[14] According to medieval Hanbali jurist Ibn Qudāma (d. 1223), one is guilty of apostasy if one:

*"denies Allah's existence … or accuses Allah of telling lies, or blasphemes Him, or if he calls His Messenger a liar, or insults him, or if he denies a Prophet, or denies the Book of Allah or anything from it, or denies one of the basic pillars of Islam, or if he attributes lawfulness to something declared unlawful by the consensus of legal opinion (*ijma*')."[15]

It is well-accepted that someone cannot be killed for apostasy until he is invited to repent three times.[16]

An unbeliever, or *kāfr*, is defined by former Egyptian Muslim Brotherhood leader Ḥasan al-Huḍībiyy as someone who "has rejected (*jaḥada*) something that Allah has commanded one to believe."[17] *Juḥūd* can come in the form of the heart or the tongue, the former of which a majority believe only God can know, and the latter of which makes one an unbeliever.[18] There is significant debate over whether one's sins

make one an unbeliever.[19] Modern *jihādis* like HTS and al-Qaeda generally accept that action is intimately connected with one's status as an unbeliever.[20] They argue that there are only three ways one could sin and still be a believer: one is forced, ignorant, or driven by human desires but still accepts God.[21] Without these, if one knowingly and willingly refuses the word of God and the Prophet, he is considered an unbeliever.[22] Some *jihādis* subscribe to the notion that only individuals can be declared unbelievers, not entire groups, and proper evidence must be presented when accusing someone of unbelief.[23] Concerning rulers, if they repeatedly impose laws other than the *Shariah*, this is a sufficient reason to declare them unbelievers.[24]

CREED AND PRINCIPLES OF HTS
SALAFI-JIHĀDISM

Salafism denotes those who closely follow the model of the Prophet's Companions.[25] The Salafi creed (*'aqīda*) includes a strong emphasis on the oneness of God (*tawḥīd*), rejection of human subjectivity or reason, and a literalist adherence to the Hadith, the Qur'an, and consensus of the Prophet's Companions.[26] *Tawḥīd* for Salafis means that God alone is unique and sovereign (*Tawḥīd al-rubūbiyya*), that God alone is the supreme legislator (*Tawḥīd al-ulūhīyya*), and that God alone can be followed (*Tawḥīd al-asma' wa-l-ṣifāt*).[27] Many Salafis believe that because they emulate the Prophet's Companions their sect will be saved, and all others will be damned to Hell.[28] Further,

anyone who does not strictly follow the sources of the Qur'an, the Hadith and the consensus of the Companions is seen as straying from God's path, and any action not deemed to be based on the Qur'an or the Hadith is innovation (*bid'a*), considered to be rooted in human deviancy.[29] An important component of Salafism is the doctrine of loyalty and disavowal (*al-wala' wa-l-bara'*), in which believers are required to disavow unbelief in all forms, which for many Salafis means anything that is contrary to *tawḥīd*. According to Ibn Taymiyya and later Ibn 'Abd al-Wahhab, considered the founder of modern Wahhabism, *tawḥīd* is violated if one acts in any way that does not affirm God as the exclusive and unique Legislator and Sovereign.[30]

Salafi-Jihadists deviate from Salafis on one major point: they argue violence is necessary to establish God's law,[31] the essence of *tawḥīd*. Al-Maqdisi, considered one of the founders of the modern Salafi-Jihadi movement, describes it as "a current which unites the call to monotheism in all its aspects, with *jihād* for that purpose at the same time."[32] Within Salafi-Jihadism, there are significant differences over the relationship between doctrinal purity and political or military strategy, with some arguing that purity be upheld at all costs, and others arguing that strategy necessitates doctrinal concessions.[33] Though not all jihadist groups are Salafi, all groups using violence as a means to establish their interpretation of God's law are jihadist.

Turkish armored vehicles dispatched from Hatay to support the units at Syria's Idlib border receive training by Turkish Armed Forces on January 12, 2019. *(Cem Genco/Anadolu Agency/Getty Images)*

Though no usage of the exact phrase "Salafi-Jihadist" by HTS was found, the group recognizes *jihād* as the "utmost pinnacle" of Islam and the Prophet's Companions as "infallible," and specifies that no other person can claim the same infallibility.[34] It is also categorized as Salafi-Jihadist by former member Abu Human al-Shami.[35] Given its reliance on key tenants of Salafi-Jihadism and its categorization as such by members, HTS is classified as Salafi-Jihadist in this analysis.

HTS' STATED CREED AND PRINCIPLES

HTS formed on Jan. 28, 2017 as a merger of five groups. Then-leader Abu Jabir describes the group as an "independent entity" seeking to "bring down the criminal regime [...], liberate all Syrian land, and preserve its unity and the identity of its Muslim people."[36] The group refers to the regime as either a criminal (*mujrim*) or a tyrant (*Ṭawaghūt*), the latter of which jihadist ideologue Abu Mus'ab al-Suri defines as an unbeliever (*kāfr*) because tyrants force Muslims to live under a legal system that is not sanctioned by God.[37] HTS claims its *jihād* is being waged in the path of God, with allegiance to the believers (*al-wala' l-al-mū'mīn*) and disavowal of unbelievers (*barā' al-kufr*) in accordance with the *Shariah*.[38] The group's stated principles include complete renunciation of secularism and democracy, protection of refugees and internally displaced persons, governance by the *Shariah*, continuing the *jihād* until its goals are fully realized, non-dependence (*'adm al-tab'iya*) on outside states, and the non-recognition of any groups who joined the Astana agreements.[39] The group

admits that the "merger project [HTS]" will bring together different beliefs under one "unified context," and that it has, perhaps purposefully, an ill-defined creed and methodology.[40]

Some researchers have claimed that HTS is waging a popular *jihād*, or one in which decision-making is driven by popular opinion rather than by elites[41] who give little thought to local opinion.[42] This may be true, but it suggests more of a structural shift in the group's decision-making process than what appears to be the case. Instead, it appears that the Syrian revolution has provided a useful contextual framework for HTS to justify some of its more controversial decisions. The group uses the Syrian revolution, and thus inherently popular opinion, as a source of local legitimacy.[43] According to an official statement from the HTS Shariah Council, HTS "adopted some choices of juristic reasoning (*ijtihad*) that allow us to continue it [the *jihād*] in the shadow of the blessed revolution," indicating that the defense of the revolution, rather than popular opinion as a separate entity in and of itself, provides legitimization for the group.[44] This does, however, signal a doctrinally controversial strategy, in which HTS is prioritizing the local Syrian context over the international Muslim community (*ummah*). Al-Qaeda loyalists have used this to accuse HTS of being nationalist (*al-waṭanī*), a grave error for Salafi-Jihadists.[45] For its part, HTS seems to be attempting to find a middle ground. The General Shariah Council's explains, "... the *jihād* of al-Sham has come in the shade of a popular revolution that arose against

a criminal regime (*niẓām ijrāmī*), and it [the *jihād*] would not have come about as it is today except after the ... *jihād* of the masses of the *mujāhidīn* in many regions of the abode of Islam."[46] The revolution seems to provide the necessary foundation for the *jihād*, which then in turn involves the global community. This argument conveniently avoids, however, the more controversial question of whether HTS is fighting for Syria or for a global Islamic caliphate. This topic is not fully explored in this analysis, but it does contextualize HTS' decision-making, which straddles local *jihād* and global appeal.

THE CASE OF TURKEY

Turkey is a democratic, Muslim-majority country governed by secular law. Since the uprising against the Syrian regime began in 2011, Turkey has played an active role in supporting opposition forces.[47] In 2017, Turkey participated in several rounds of peace talks, known as the Astana process, between Russia, Turkey, Iran, opposition forces, and the regime, which established de-escalation zones throughout Syria to be distributed among the war's major players. Turkey was given 12 military observation points in Idlib, a north-western region largely controlled by HTS.[48] Since October 2017, Turkish troops have been allowed by HTS to not only enter Syria, but to establish the 12 military posts agreed upon at Astana, which surrounded the group's territory.[49] That decision marked a remarkable break in al-Qaeda's principles and methodology

and led to a heated debate with al-Qaeda purists, particularly with vocal Salafi-Jihadist ideologue Maqdisi.[50]

What follows is analysis of the two largest points of contention between al-Qaeda ideologues and HTS between January 2017 and June 2018. The first concerns the doctrine of loyalty and disavowal, and the second the group's application of the doctrine of necessity. HTS, by appealing to war-time necessities and conditions it claims to have placed on the Turkish military, does not appear to be violating its stated principles of fighting the Syrian regime, non-dependence (*'adm al-tab'iya*) on foreign entities, and allegiance to the loyalty and disavowal doctrine. However, Turkey threatens to transform HTS' *jihād* into a secular war in which victory is defined by the overthrow of the regime, with no promise of Shariah governance. This is contrary not only to HTS' goal of establishing its version of Shariah governance, but to the very purpose of a *jihād*.[51]

THE DOCTRINE OF LOYALTY AND DISAVOWAL

The doctrine of loyalty and disavowal (*al-wala' wa-l-bara'*) requires loyalty to fellow believers, God, and Islam, and disavowal of any manifestation of unbelief.[52] Salafi-Jihadists interpret the doctrine as mandating that Muslims disavow apostate regimes and any entity who actively supports them.[53] According to Maqdisi, any diplomatic or military ties with non-Muslim rulers count as "*sinful wala'*."[54] For those like Maqdisi, violating the doctrine means violating *tawḥīd*, threatening one's status as a believer.[55] Violation could mean fighting for or actively collaborating with secular groups or countries. Concern over HTS' apparent lack of adherence to the doctrine arose right after its formation, and that concern heightened after it allowed the Turkish military into its territory.

Maqdisi has repeatedly questioned whether HTS is fighting for the implementation of the laws of men or for those of God, and doubts that the group's *jihād* is one of Islamic conquest (*fataḥ*); rather, he suggests it has changed to one of liberation (*taḥrīr*),[56] in which one seeks to impose non-Islamic governance.[57] In March 2018, when the Turkish military pushed the People's Protection Units (YPG), a secular Kurdish military group labelled terrorists by Turkey, out of Afrin, HTS promptly declared the town as "liberated" (*al-muḥarrar*).[58] Maqdisi fired back, accusing Turkey of simply transferring rule from "one tyrant (*ṭāghūt*) to another tyrant (*ṭāghūt*)," a label seen by Salafi-Jihadists as equivalent to the status of unbelievers, as well as the Syrian regime.[59] For Maqdisi, allowing Turkey to control any land at all in Syria is equivalent to allowing the criminal, apostate regime to do so, and makes HTS dangerously close to violating *tawḥīd*. HTS addresses these accusations by limiting its direct relationship with Turkey in battle, and by defining Turkey as a "lesser believer."

THE LEGALITY OF RELATIONS WITH TURKEY IN BATTLE

HTS supporter and Salafi-Jihadist ideologue Abū Qatāda attempted to define parameters around working with Turkey first in a March 2017 *fatwā*.[60] He defines Turkey as "apostate [and] unbelieving" for its basis on *shirk*, the Quranically prohibited religion often translated as polytheism but meaning secularism here.[61] Using this classification, Qatāda reasons that those who go into battle alongside the "apostate (*mūrtadd*), unbeliever (*kāfr*) Turkish Army" in order to fight other Muslims are themselves unbelievers and apostates, according to "a former ruling."[62] This conception of the loyalty and disavowal doctrine is not wholly dissimilar from Maqdisi's, and may be why Maqdisi never labelled the group as unbelievers. Qatāda makes it clear that believers are required to disavow any apostate or unbelieving regime. He's explicit that following orders from Turkey in battle means a fighter becomes an unbeliever himself, because he is willingly subjecting himself to secular law, and is fighting on behalf of a secular state whose goals are inevitably contradictory to those of a *jihād*. Qatāda does not clarify what happens to those who provide tacit approval for such an army but do not fight with it, however, which paves the way for HTS.[63]

HTS Shūra Council member Abu Al-Fataḥ al-Farghalī takes note of Qatāda's *fatwā* and, when Turkey was first allowed access to Idlib, he published three conditions to be imposed on the Turkish Army: 1) In liberated areas (i.e. areas the regime or ISIS was pushed out from) the Turkish Army could only serve the purposes and goals of the *mujāhidīn* (i.e. HTS); 2) Turkey was forbidden from entering any administration (i.e. governance) of a liberated area; and 3) any battle decision – al-Farghalī mentions explicitly the decision to declare a ceasefire – was exclusively in the authority of the *mujāhidīn*.[64] In line with Abu Qatāda's *fatwā*, al-Farghalī's conditions ensure HTS does not follow orders from the Turkish Army, kill other Muslims in the process, or allow Turkey to impose its own governance, any of which would be clear violations of loyalty and disavowal, and enough to render the group an unbelieving entity. Though one may question the actual enforcement of these conditions, as matters of doctrine, they have prevented HTS from being declared unbelievers.[65]

ERDOĞAN AND TURKEY AS "LESSER EVILS"

In the same *fatwā*, Abū Qatāda makes a second argument that HTS uses in defense of its allegiance to the loyalty and disavowal doctrine. Qatāda argues that though one act of sin is indeed enough to make someone an unbeliever, there are gradations of unbelief (*kāfr*).[66] In the case of Turkish President Recep Tayyip Erdoğan, he explains that the president has committed fewer acts of unbelief than other apostate leaders because he rules with weak secularism rather than the solid secularism of alternative rulers, which are all leftists or nationalists. This makes him a lesser unbeliever. Admittedly, this argument complicates the Salafi-Jihadist notion of belief and the oneness of God (*tawḥīd*).[67] Salafis argue that sin

is intimately connected to unbelief and *tawḥīd*; one must accept *tawḥīd* through both actions and words.[68] Though it is true Qatāda recognizes this connection, he also recognizes that some sins are worse than others.[69] This is a major break from Maqdisi's brand of purism, and HTS has repeatedly used this classification to further justify its relationship with Turkey. First, after Turkey was granted access to Idlib, HTS Media Official Muhammad Nazzal argued the Turks' entrance was not desirable, but was justified because it was "the lesser of two evils."[70] For Nazzal, these other evils appear to be the YPG, Russia, the Syrian regime, and even its rival, Aḥrār al-Shām.[71] This description of Turkey as a "lesser evil" took a more controversial form in late June 2018, when Turkish President Erdoğan won his bid for re-election. Qatāda released a public statement that day celebrating Erdoğan's victory as a victory over "apostate unbelievers who hate Islam."[72] While he admitted that Erdoğan has some good and bad sides, and criticized those who disregard his flawed methodology in life and politics, he argued that Erdoğan is ultimately good for the global Islamic community, or *ummah*.[73]

In response, Maqdisi argued there are no gradations of *tawḥīd*, and one should not support a lesser evil by saying there exists a greater one.[74] For Maqdisi, the world is divided cleanly between believers and unbelievers, and those in the realm of unbelief are treated equally as unbelievers, and under the doctrine of loyalty and disavowal, "Muslims … [must] disavow an apostate regime."[75] Several other purist scholars came to support Maqdisi, including one who presciently applied relations with Turkey to the predicted success of the *jihād*. Turkey, he argued, has acted in ways contrary to the *jihād* in Syria, including killing Muslims to gain control of territory, and supporting America in killing the leadership of *jihādī* groups.[76] In the past they have also supported Western wars against the *mujāhidīn* in Afghanistan, Somalia, Tunisia, and elsewhere. This makes Turkey an illegitimate and untrustworthy partner in any respect, including tacit approval. He compares relations with Turkey to those with Pakistan during the Afghan *jihād*, lamenting that scholars were so focused on victory and not on the deviations of methodology within the *jihād* that they eventually aligned with "the wrong side of truth." [77]

Yet, Maqdisi and his supporters fall short of declaring HTS an unbeliever. HTS' relationship with Turkey by itself is not enough for HTS to be declared unbelievers by al-Qaeda loyalists, according to the loyalty and disavowal doctrine. Yet this notion of methodological deviation brought up by Maqdisi's defender was more difficult for the group to defend itself against. Purity in methodology assures the *jihād* produces what it is meant to produce, namely the establishment of their interpretation of God's law, meaning even if HTS is not technically an unbeliever, its relationship with Turkey may be thwarting its own *jihād*. This has far greater implications.

HTS celebrates the Turkish takeover of Afrin, *HTS Media*

JUSTIFYING THE MEANS TO PROTECT THE ENDS

On Nov. 3, 2017, soon after the Turkish Army entered Idlib, HTS Shūra Council member al-Farghalī argued that the Turkish military presence was necessary to protect the "continuation of the *jihād*, the lives of the Syrian people … and the struggle to make the word of Allah supreme."[78] Al-Qaeda loyalists responded by arguing the relationship with Turkey is actually counter to the group's supposed interests; in late May and early June 2018, one loyalist argued that it "effectively … bur[ied] the *jihād* alive … [HTS] … now finds itself just steps away from the camp of the traitors."[79] In response, the Shariah Council of HTS released a statement titled, "A Clarification on Jihad and Shariah Politics: Between Constants and Alternations," in which the Council put forward two legal justifications for the group's methodological divergence: first, that the context of the war forced HTS to compromise some of its creed in order to protect its *jihād*, creating the legal conditions of compulsion (*Iḍṭirār*) and necessity (*Ḍarūra*). Second, the concept of Shariah governance (*siyāsa Shariah*) allows HTS leadership to apply altered judgements which fit this new context. The Council argues that the capability to properly implement a legal judgement (*aḥkām*) is situationally dependent, and when changes to a previously accepted judgement are made, it is only to protect the group's consistent principles within this context. It explains that its "reference to Shariah is a constant, and the principle of *jihād* is a constant, but the capability on

which rulings are dependent is variable."[80] Though "Shariah governance" (*siyāsa Shariah*) is typically reserved for official governing bodies, the Council argues that it "is a part of *jihād*," and that "*jihād* is a part of Islam, indeed it is the utmost pinnacle."[81] In other words, HTS' leadership is entitled to make changes to previous judgements (*aḥkām*), according to the situation on the ground, to protect its *jihād*.

The Council then justified the group's relations with Turkey. It explains these relations were necessary to secure "the interests of this revolution and this *jihād*" and to defeat "the criminal regime and its allies."[82] These relations are legal because, it argues, the evils derived from these relations will never exceed the interests of doing so. "We work to the satisfaction of God Almighty … with our belief in the possibility of convergence of some of the interests between us and others in what does not conflict with our religion and our constants."[83] The Council further emphasizes that HTS will "never be part of a system that does not adopt references of Islam in it," and that its goal, as it always has been, is to defend the revolution and its *jihād*.[84] However, the very foundation of its relations with Turkey indicates a major gamble: HTS' entire argument presupposes it can use Turkey to defeat the regime, but then assert its own creed in the governance of Syria. This gamble is not only unlikely, but could well be the group's demise.

SIYĀSA SHARIAH AND THE JIHĀD

The concept of Shariah governance (*siyāsa Shariah*) translates roughly to "governance in the name of sacred law."[85] Under *siyāsa Shariah*, a leader is given some discretion in decision-making beyond the strict letter of the law, provided he has sought counsel from religious scholars.[86] Unlike religious doctrines, law, and judgements, decisions that are made under *siyāsa Shariah* are not meant to be binding or authoritative; they are specific to the time and place in which they are made.[87] The purpose of these decisions, according to medieval Maliki jurist Ibn Farhun (d. 1397), is to protect life, lineage, mind, character, property, and to eliminate corruption.[88] Similarly, according to Ibn Taymiyya, the purpose of *siyāsa Shariah* is to "improve the religious condition of human beings" as well as "the material conditions which are indispensable for the triumph of religion."[89] The concept also prevents a situation that could arise in which following the letter of the law may actually be to the detriment of Muslims. Modern legal scholar Khaled Abou El-Fadl explains that jurists "assume the material interests of Islam should be served, and that Muslims should not be placed into a subservient or compromising position."[90] Jurists also concede "a significant amount of deference to a ruler regarding entering a peace treaty or waging war against non-Muslims."[91] For HTS, the concept of *siyāsa Shariah* legitimates a leader's discretion to make strategic wartime decisions in the interest of protecting *jihād* and, in its view, the religion itself, in a war against an unbelieving regime.

THE DOCTRINE OF NECESSITY

The second legal mechanism is the doctrine of necessity, which provides the requisite contextual justification for deviating from legal judgements (*aḥkām*). HTS uses two words to define this. The first translates more closely to compulsion (*Iḍṭirār*), and was historically used to describe actions that could not take place by themselves – devoid of human free will.[92] The second is necessity (*Ḍarūra*), whose jurisprudential meaning refers to external circumstances which legitimize otherwise unlawful action.[93] The justification for necessity, found in [Q.2:173], involves foregoing requirements that are otherwise obligatory (*wājib*) under extreme circumstances.[94] HTS' Shariah Council uses the concept of necessity to argue that the state of its *jihād* is an extreme circumstance, which necessitates its relations with Turkey.[95] This application does appear justified by Ibn Taymiyya, though the council does not cite him directly. Ibn Taymiyya argues that if a group finds itself in a situation in which good and evil cannot be disentangled from one another, it is permissible to command the good even if some lesser evil cannot be separated from it.[96] "One does not forbid the evil if that would lead to the loss of a more important good [inseparable from evil]."[97] Even Maqdisi, a vocal critic of HTS, seems to say he could support this application of the doctrine of necessity; he explains in a publication predating HTS that "it is impermissible to hinder all fighting and *jihād* on earth … under the claim that it is ridden with errors and deviations."[98]

What is implicit in the usage of the doctrine of necessity is HTS' focus on war-time strategy above methodological purity.[99] It is reminiscent of a long-standing debate between jihadist purists and strategists, the latter of whom see the success of an armed *jihād* as more important than the means of achieving it. This approach seems to be increasingly favored and it may be that the Arab Spring has necessitated the demise of purists. Abū Qatāda, a defender of HTS but historically a purist, lamented in March 2017 that "the enemy of *jihād* yesterday is the leader of the *jihād* today," referring to leaders of nationalist causes mixing with jihadist groups.[100] He concludes that it would be both impractical and devastating for jihadist groups to completely isolate themselves in the name of doctrinal purity. Yet even still, HTS' relations with Turkey raise an important concern: what if Turkey is not helping defend HTS' *jihād*, but undermining it? If the aim of every armed *jihād* is the establishment of God's law, what happens when that becomes less likely through the means of achieving it? Increasingly, this is what Maqdisi and his supporters fear: that the Turkish entrance is a violation not because HTS cannot legally justify it, but because it fundamentally threatens the very existence of its *jihād*.

CONCLUSION

HTS makes two overarching arguments to justify its relations with Turkey. The first involves the doctrine loyalty and disavowal (*al-wala' wa-l-bara'*), which HTS argues is only violated if it follows direct orders from the Turkish Army in battle, kills other Muslims, or allows Turkey to govern territory. HTS also makes a relativistic argument about Turkey's status as an unbeliever, arguing that Turkey is a lesser unbeliever relative to domestic alternatives and to other Muslim countries. Its understanding of the loyalty and disavowal doctrine, a critical component of Salafi-Jihadism, does not appear to classify it as an unbeliever, but it remains to be seen how long it can sustain this careful balance.

HTS' second argument involves justifying the means of the *jihād* with its ends. Under the doctrine of necessity and the mechanism of *siyāsa Shariah*, the group argues it is allowed a certain degree of discretion in decision-making, and the necessity of its situation forced it to form relations with Turkey to protect the *jihād*, Muslims, and the religion itself. Though al-Qaeda dissidents fall short of declaring HTS an unbeliever (*kāfr*), they heavily criticize the group's decision to form relations with Turkey. Al-Qaeda ideologue Maqdisi claims HTS is not properly disavowing all unbelievers – including Turkey – and al-Qaeda loyalists like Adnan Hadid suggest the group is no longer even waging a *jihād*, given its relationship with Turkey.

Though HTS does not explicitly violate its creed or principles, its methodology begs the question: are the means ever so far from the end that they thwart the end itself? What happens if Turkey overthrows the regime, only to select its own secular ruler? HTS, by allowing Turkey into Syria and to control territory, could very well be deemed as having a direct role in implementing secular law, which violates the very purpose of *jihād*, not to mention the doctrine of loyalty and disavowal and the oneness of God (*tawhīd*). What is equally clear, however, is that HTS faced a significant risk of draining its resources had it fought Turkey. It is uncertain what will happen in Syria, though it appears HTS' relationship with Turkey will be central to the future of the Syrian conflict, as it controls the most territory in north-western Syria and provides legitimacy for Russia in saying the area must be invaded to defeat the "terrorists."[101] What is clear is that HTS is facing a serious threat to its existence, and its gamble to extend relations with Turkey may bring about the demise of its *jihād*, and itself.

U.S. POLICY IMPLICATIONS

The debate between al-Qaeda loyalists and HTS over relations with Turkey suggest several trends in counterterrorism, which hold important U.S. policy implications:

1. ***Doctrinal purity presents a longevity challenge.*** Al-Qaeda's emphasis on doctrinal purity was largely unsuccessful in Syria, and I believe it will not be a winning strategy for future jihadist groups. Rather, it is likely that merger designs like HTS, with less focus on doctrine and more on strategic decision-making and combining factions, will become a more common and more successful model for future terrorist groups. As HTS demonstrated, there are existing legal tools for groups to undertake this strategy.

2. ***Adopting nationalist causes is necessary for survival***. The most successful jihadist groups in Syria were those like HTS that imbedded themselves in local movements, making their *jihād* principally equivalent to the Syrian revolution. This allowed them to gain local recruits and maintain control over their territory, and it made them a major player in international decision-making in Syria.

3. ***Cooperation with apostates presents a serious challenge to jihadists.*** It is highly unlikely, if not impossible, for any jihadist group to legally justify fighting alongside an apostate entity, even if they share a common enemy. Even HTS had to avoid fighting the regime directly alongside Turkey, which limited its military efficacy. This means that international support of local causes these groups supposedly champion may be the best way to undermine their efficacy.

ENDNOTES

1. Charles Lister, "How al-Qa'ida Lost Control of its Syrian Affiliate: The Inside Story" *CTCSentinel* 11, no. 2 (February 2018).

   Martin Chulov, "Syrian opposition group that killed child 'was in US-vetted alliance.'" *The Guardian*, July 20, 2016.

   In its initial stage, HTS was made up of five groups: Jaysh Fatah al-Sham (al-Nusra's first iteration), Harakat Nour al-Din al-Zinki, Liwa al-Haq, Jaysh al-Sunna, and Jabhat al-Din. Nour al-Din al-Zinki proved particularly controversial, as the group was once a member of the supposedly secular Syrian Revolutionary Command Council and a recipient of U.S. anti-tank missiles

2. Ibid.

3. HTS has both squandered independent towns under its control, such as Saraqeb, as well as used its control to negotiate with Turkey over the fate of north-western Syria. As the war comes to a painstaking, grinding close, HTS has established itself as one of the major players in the country.

   Anand Gopal, "Syria's Last Bastion of Freedom." *The New Yorker*, December 10, 2018.

   Anchal Vohra, "HTS Offensive Could Draw in Syria and Turkey." *Al-Jazeera*, January 9, 2019.

4. Majid Khadduri, *War and Peace in the Laws of Islam*, (Baltimore: Johns Hopkins Press, 1955), 55.

5. Ibid, 55.

   See Giles Kepel, *Jihad: The Trail of Political Islam* (New York: I.B. Tauris & Co. Press, 2006); for more on the history and current practices of armed *jihād*.

   See Michael Bonner, *Jihad in Islamic History* (Princeton: Princeton University Press, 2006).

6. Khadduri, *War and Peace in the Laws of Islam*, 70.

7. Khaled Abou El Fadl, "The Rules of Killing at War: An Inquiry into Classical Sources" *The Muslim World* 89, no. 2 (April 1999), 150.

8. Quintan Wiktorowitz "Anatomy of the Salafi Movement" *Studies in Conflict & Terrorism* 29, no. 3 (April 2006) 207, 216.

   Mohamad Bader, Masaki Nagata and Tiphane Tueni "The Radical Application of the Islamist Concept of *Takfir*" *Arab Law Quarterly* 32, no. 2 (June 2017), 31.

9. See Khadduri, *War and Peace in the Laws of Islam*, Q.9:5; Q.9:124; Q.47:4, 90.

10. Khadduri, *War and Peace in the Laws of Islam*, 90.

11. Ibid.

12. Taha Jabir Alalwani, *Apostasy in Islam: A Historical and Scriptural Analysis* (Herndon: International Institute of

Islamic Thought, 2011), 30.

13. Ibid, 31.

14. See The Qur'an [5:54], [2:217], and [18:64].

15. Muhtar Holland, *The Mainstay Concerning Jurisprudence (Al-Umda fi l-Fiqh - Handbook of Hanbali Fiqh)*, (Oakland Park: Al-Baz Publishing, Inc., 2010,), 309.

16. Ibid.

17. Daniel Lav, *Radical Islam and the Revival of Medieval Theology* (Cambridge: Cambridge University Press, 2012), 69.

   Medieval Hanbali jurist Ibn Qudama (d. 1223) adds that one must be aware of his duties first to be considered an apostate.

18. Ibid. This is given that someone did not reject God's commands under compulsion.

19. For example Abu Hanifa and the classical Murji'ites, an early sect of Islam, argued that acts should be excluded from considering one's status as an unbeliever; a sin does not mean religious renunciation. Hasan al-Hudiybiyy, the second leader of the Egyptian Muslim Brotherhood, held that anyone who professes the *shahada* is a Muslim, and no one can doubt their sincerity in doing so.

20. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 17.

   Salafi-Jihadists generally take 13th-century jurist Ibn Taymiyya as justification for these views. He argued that words and actions cannot contradict one's beliefs. Can a believer, for example, worship idols and still be a believer at heart? Ibn Taymiyya explains that "if the heart truly believes in the veracity of the Prophet … this makes it impossible for him to curse him." He then argued that the Mongols were unbelievers (*kuffar*) because even though they claimed to be Muslims, they ruled by a law that was devised by Genghis Khan (the *yasaq*, or *yasa*) rather than the Shariah, which showed they did not truly believe in the ways of God or the Prophet.

21. Quintan Wiktorowitz, "Anatomy of the Salafi Movement," 229.

22. Shiraz Maher, *Salafi-Jihadism: History of an Idea* (London: C. Hurst & Co, 2016), 15.

23. Ibid, 233.

   This is not true for all jihadist groups. So-called neo-Takfiri groups such as ISIS are more concerned with piety and less concerned with methodological purity, unlike doctrinal purists like al-Maqdisi.

   See Eli Alshech, "The Doctrinal Crisis within the Salafi-Jihadi Ranks and the Emergence of Neo-Takfirism," *Islamic Law and Society* 21, no. 4 (September 2014): 419, 433.

24. Quintan Wiktorowitz "Anatomy of the Salafi Movement," 229, 233.

25. Ibid., 208.

The name itself comes from the word for the Prophet's Companions, the *Salaf*. Salafis follow the Companions because, having learned Islam directly from the Messenger of God, they are best able to provide an accurate portrayal of Islam's proper practice.

26. Ibid., 207-208.

27. Ibid, 208-209.

Daniel Lav, *Radical Islam and the Revival of Medieval Theology,* 42-43.

28. Quintan Wiktorowitz "Anatomy of the Salafi Movement," 209.

This is based on two *hadith* in which the Prophet was reported to have said, "[T]his *Ummah* will divide into seventy-three sects all of which except one will go to Hell and they are those who are upon what I and my Companions are upon"; and, "I am leaving you with two things and you will never go astray as long as you cling to them. They are the Book of Allah and my Sunna."

29. Ibid, 209.

30. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 146-147.

Al-Wahhab defined *tawhīd* as "in the heart, in the tongue, and in acts," and argued that that, "anyone who omits any part of this is not a Muslim." He believed that *tawhīd* was critical when differentiating between polytheism and monotheism. Ibid, 217-225.

31. Ibid, 217-225.

32. Thomas Heggmaker "Jihadi-Salafis or Revolutionaries?" in *Global Salafism: Islam's New Religious Movement*, ed. Roel Meijer (Oxford: Oxford University Press, 2014), 253.

33. Ibid, 258-259.
See Brynjar Lia, "Destructive Doctrinarians: Abu Musab al-Suri's Critique of the Salafis in the Jihadi Current," in *Global Salafism: Islam's New Religious Movement*, ed. Roel Meijer (Oxford: Oxford University Press, 2014), for a structural breakdown of these differences.

34. The General Shariah Council of Hay'at Tahrir al-Sham, *'al-Jiha d wa-l-Siya sa al-Shari 'a bayna al-Thawa bit wa-l-Mutaghayra t'* (2018)

35. Ayman Jawad al-Tamimi, "The Hay'at Tahrir al-Sham-al-Qaeda Dispute: Primary Texts (VI)," Ayman Jawad al-Tamimi's Blog, 2017.

36. Abu Jabir, *'al-Kalima al-awla l-l-muhandis / hāshim al-Sheikh al-qā'id al-'ām l-hay'at tahrir al-shām,'* (2017).

37. Abu Mus'ab al-Suri, *'al-thawra al-islāmīya al-jīhādīya fī sūrīyā,'* (1991) 36-50.

This is important because it changes the nature of their *jihād* as being waged against an unbeliever, rather than merely a criminal. It means their fight against the regime is rooted in the notion of tawhid and the doctrine of loyalty and disavowal.

38. Al-Shami (2017), 10, In Islamic jurisprudence, the Shariah are understood to be the sources of God's law, namely the Qur'an and the Prophetic Sunna. For most Sunni jurists, a third source is *ijma'* or consensus of the community. For more on Shariah see:

   Mohammad Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Legal Texts Society, 2003).

   Wael B. Hallaq, Sharī'a, *Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009).

   Mashood Baderin, *Islamic Legal Theory*, (Abingdon: Routledge, 2017).

39. Al-Shami (2017).

   The group changed this last principle concerning the Astana peace talks; a month after formation they said attendees could join HTS but first had to renounce the peace agreement and exit any involvement.

40. Ibid.

41. In this context, elites would be al-Qaeda leadership who are based far from the frontlines of the *jihād*.

42. Researchers such as Charles Lister argue that HTS shifted from a *jihād* directed by "elites" to one driven by and responsive to "popular" opinions.

43. For more on Ahrar al-Sham's ideology, see Sam Heller, "Ahrar al-Sham's Revisionist Jihadism," *Long War Journal*, 11, no. 6 (September 2015)

   It's likely the group's references to popular opinion and the revolution are also intimately linked to rival jihadist group Ahrar al-Sham, which became the largest opposition group in 2015 and has stayed remarkably consistent in its strategy of "*al-hadinah al-sha'biyyah*," a strategy that can be equated to the English phrase "hearts and minds" (Stanford University 2017). The group is not only HTS' largest rival, but many former members of Ahrar al-Sham joined HTS, influencing the group's methodology and creed, including the first leader of HTS Abu Jabir.

   For more on Ahrar al-Sham's influences on al-Nusra see Charles Lister, "The Dawn of Mass Jihad: Success in Syria Fuels al-Qa'ida's Evolution," CTC Sentinel 9, no. 9 (September 2016).

44. The General Shariah Council of Hay'at Tahrir al-Sham, *'al-Jiha d wa-l-Siya sa al-Shari 'a bayna al-Thawa bit wa-l-Mutaghayra t'* (2018)

45. Abu Muhammad al-Maqdisi, (2017) This is a more long-standing debate among Salafi-Jihadist groups, involving the localization or globalization of *jihād*.

   For more on the local versus the global debate within waging a *jihād*, see Fawaz A. Gerges, *The Far Enemy: Why Jihad Went Global* (Cambridge: Cambridge University Press, 2009).

46. The General Shariah Council of Hay'at Tahrir al-Sham, *'al-Jiha d wa-l-Siya sa*

al-Shari 'a bayna al-Thawa bit wa-l-Mutaghayra t' (2018)

47. For example in 2016, Turkey sent tanks, warplanes and troops to support the Free Syrian Army (FSA).

   See Martin Chulov, "Syrian opposition group that killed child 'was in US-vetted alliance,'" *The Guardian*, July 20, 2016.

48. "Final de-escalation zones agreed on in Astana," *Al-Jazeera*, September 15, 2017.

   See map of the Turkish de-escalation zone on page 2.

49. Hassan Hassan, "The Turkish intervention in Idlib does not solve the issue of Hayat Tahrir al-Sham's dominance," *The National*, October 11, 2018.

   Ömer Özkızılcık, "Russia, Turkey, and the Fate of Idlib," *Carnegie Endowment for International Peace*, August 7, 2018.

   On May 28, 2018, Turkey established a coalition of groups meant to counteract HTS, known as the National Front for Liberation. The Front has yet to take any military action against HTS, despite repeated calls from Russia to do so. As of September 9, 2018, the fact that Turkey has yet to take any military action against HTS remains a significant barrier to preventing a regime offensive in Idlib.

50. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 177-180.

   Though some such as Joas Wagemakers (2008) argue that Maqdisi was a doctrinal purist, he appears to be more of a realist doctrinal purist, in which he sometimes accepts the viability of impure methodology in the interests of *jihād*.

51. Majid Khadduri, *War and Peace in the Laws of Islam*, 69-71. in which a jihād is defined by the eventual establishment of governance by the Shariah.

52. Joas Wagemakers, "Framing the 'Threat to Islam': *Al-Wala' wa al-Bara'* in Salafi Discourse," *Arab Studies Quarterly* 30 no. 4, (Fall 2008): 3.

   Daniel Lav, Radical Islam and the Revival of Medieval Theology, 134.

   See earlier section on Salafism for more on its relationship with the doctrine of loyalty and disavowal.

53. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 147.

54. Joas Wagemakers, "Framing the 'Threat to Islam': *Al-Wala' wa al-Bara'* in Salafi Discourse," 7.

55. For more on the relationship between tawhīd and belief, see Daniel Lav, "The Murji'ite Muslim Brotherhood" (Chapter 3) in *Radical Islam and the Revival of Medieval Theology* (Cambridge: Cambridge University Press, 2012).

56. Ibid.

57. Abu Muhammad al-Maqdisi, *'malāhathāt 'ala ta'qībāt fadhīla al-sheikh ābī 'abd allah al-shāmī,'* (2017).

58. HTS Press Release. See image on page 10.

59. Abu Muhammad al-Maqdisi (2018). See figure here on MEI website.

60. Abu Qatada al-Filistini (2017).

61. Ibid.

The Qur'an has no explicit definition of polytheism, allowing interpretation of *shirk* to extend to secularism.

62. Abu Qatada al-Filistini (2017). This could refer to the ruling of the 'ulama of the Najd, in which supporters of the Ottomans and Egyptians, who themselves were supporting the Ottomans, were declared *kufr* by followers of 'Abd al-Wahhab.

Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 133-134.

63. See Daniel Lav "Salafi Jihadists and the Theology of Faith," (Chapter 5) in *Radical Islam and the Revival of Medieval Theology* (Cambridge: 2012, Cambridge University Press) for more on the doctrine of loyalty and disavowal and its relationship to Salafi-Jihadists.

64. Abu Fatah al-Farghali, 2018, https://twitter.com/IbnNabih1/status/997878265426644992 Accessed July 20. Al-Farghali emphasized that each decision goes through the Shura Council, and that the Turkish points of entry were minimized.

65. This is as of August 22, 2018.

66. He uses [Q.5:82] to show that God Himself recognized gradations of unbelief: one who kills a believer for his disbelief in secularism is more of an unbeliever than one who refuses to fight the unbelievers at all. (Quranic Translation M.A.S. Haleem, *The Qur'an* (Oxford: Oxford University Press, 2004), 75-76.))

67. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 42.

Quintan Wiktorowitz "Anatomy of the Salafi Movement" 234.

As explained earlier, a component of *tawhīd* is to accept that God alone is the world's supreme legislator (*tawhīd uhūliyya*).

68. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 36.

This stems from 13th century scholar Ibn Taymiyya, who argued that one cannot commit a sin, such as adultery, and simultaneously hold true belief in one's heart.

69. For more on the gradations of unbelief, see Ibn Taymiyya, *The Religious and Moral of Jihad*, which describes the differences between varying degrees of unbelievers. For an English translation, see Maktabah al-Ansaar Publication (2001)

For degrees of faith (*iman*), see Daniel Lav, *Radical Islam and the Revival of Medieval Theology*.

70. Sam Heller, "Tahrir al-Sham official on

Turkey's intervention to implement Astana: 'That's not the reality,'" Abu al-Jamajem, October 15, 2017

HTS Head of Political Affairs al-Hajar used a similar argument in an interview with al-Jazeera, see (English Tr): https://twitter.com/FlagsAswed/status/1001930510933913602

71. Ibid.

72. Abu Qatada al-Filistini (2018)

73. Ibid.

74. Abu Muhammad al-Maqdisi, *'l-l-tawhīd kalimatuhu fī intakhābāt al-ra'āsa al-tūrkīa,'* (2018).

75. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 146-148.

76. Wartha al-Majd Aba'a al-Dhīm (2018).

77. Ibid.

78. Bilal Abdul Kareem, "HTS on ISIS, Turkey and More," On the Ground News, November 1, 2018.

79. Adnan Hadid, "The Fig Leaf Has Fallen," MEMRI, May 30, 2018. It should be noted that this source was only available in English. The Telegram account on which it was originally published was blocked and unavailable to the researcher, and no additional copies of the post were found.

80. The General Shariah Council of Hay'at Tahrir al-Sham, *'al-Jiha d wa-l-Siya sa al-Shari 'a bayna al-Thawa bit wa-l-Mutaghayra t'.*

81. Ibid.

82. Ibid.

83. Ibid.

84. Ibid.

85. Baber Johansen, "A Perfect Law in an Imperfect Society: Ibn Taymiyya's Concept of 'Governance in the Name of Sacred Law,'" in *The Law Applied: Contextualizing the Islamic Shari'a*, ed. Prei Bearman, Wolfhart Heinrechs and Bernard G. Weiss (London: I.B. Tauris, 2008), 259, 267.

86. Andrew F. March, 'Genealogies of Sovereignty in Islamic Political Theology,' *Social Research* 80, no. 1 (Spring 2013), 293, 299.

87. Ibid, 304.

88. N.J. Coulson, "The State and the Individual in Islamic Law," *International and Comparative Law Quarterly* 6, no. 1 (January 1957), 55.

89. Baber Johansen, "A Perfect Law in an Imperfect Society: Ibn Taymiyya's Concept of 'Governance in the Name of Sacred Law,'" 174.

90. Khaled Abou El Fadl, "The Rules of Killing at War: An Inquiry into Classical Sources," 50.

91. Ibid.

There is a legitimate question about whether these rules were in relation to state entities only, rather than extending to non-state actors like HTS. This goes beyond the scope of this paper, but for more see Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge: Cambridge University Press, 2001).

92. L. Gardet. *Encyclopedia of Islam*, Ed. 2, P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs., "Iḍṭirār." Netherlands: Brill, Accessed September 10, 2018.

93. Linant de Bellefonds, Y., in: *Encyclopaedia of Islam*, Ed. 2: P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs., "Ḍarūra," Netherlands: Brill, Accessed September 10, 2018.

94. See Quranic Translation M.A.S. Haleem, *The Qur'an* (Oxford: Oxford University Press, 2004), 19 for a full translation of the verse.

95. Niaz Shah "The Use of Force under Islamic Law," *The European Journal of International Law* 24, no. 1 (February 2013) for more on the application of the doctrine of necessity in the context of active hostilities.

96. Baber Johansen, "A Perfect Law in an Imperfect Society: Ibn Taymiyya's Concept of 'Governance in the Name of Sacred Law," 284.

97. Ibid.

98. Daniel Lav, *Radical Islam and the Revival of Medieval Theology*, 177.

99. Abu Mus'ab al-Suri is one of the more well-known strategists. In Afghanistan, he advocated for working with the Taliban despite their controversial stances towards Sufis, contrary to many doctrinal purists. This view, it should be noted, is in explicit contrast to Maqdisi's anonymous supporter over Erdoğan's election, who argues that the *jihād* in Afghanistan was compromised precisely because strategy was placed above doctrinal purity.

100. Abu Qatada al-Filistini, 'al-tahawulat al-mutawaqa'a an tahadith fi al-tayyar al-jihadi' (March 2, 2017).

101. "Syria War: Russia rejects Turkey's calls for Idlib truce," BBC News, September 7, 2018.

Paul McLoughlin, "HTS takeover of Idlib risks new Syrian humanitarian crisis," The New Arab, January 17, 2019.

The word terrorist is in quotations here because, in addition to HTS, there are an estimated 1.5 million civilians in the area.

Cover Photo: Syrian fighters fire AK-47 at a mock battle during a graduation of new Hayat Tahrir al-Sham (HTS) members. *(OMAR HAJ KADOUR/AFP/Getty Images)*

Photo 2: Syrian fighters attend a mock battle during a graduation of HTS members. *(OMAR HAJ KADOUR/AFP/Getty Images)*

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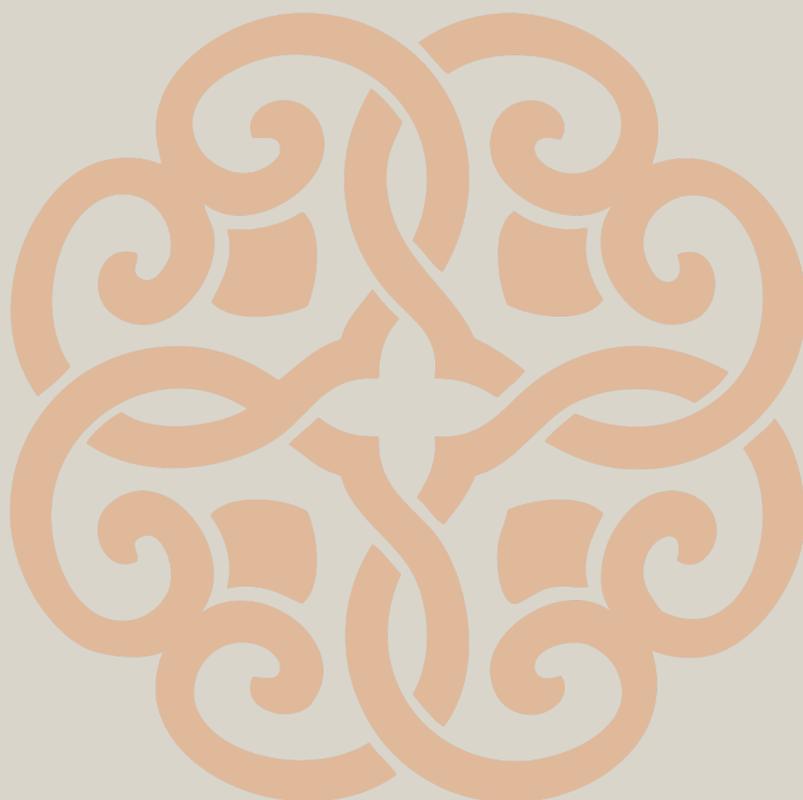
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