

# TRACING CLASSICAL MUSLIM TRADITION'S DISCOURSE ON TERRORISM

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## Abstract

*The 2001 USA-led War against Terror targeted groups and individuals in countries predominantly inhabited by Muslims. This tendency produced the allegation that “terrorism” is designed to address Islam and Muslims as perpetrators of the violence. How do Muslims actually perceive themselves in relation to terrorism? While the discourse on terrorism remains infrequent among Muslims, identical concepts on dealing with violent actions consisting of terrors in fact can be found across classical Muslim traditions.*

Keywords: *Bughat, Fiqh, Hirabah, Terrorism*

## Introduction

In contemporary Arabic terminology, terrorism is referred to as “*irhab*“, derived from the verb “*arhaba-yurhibu*.” Etymologically, this word means “to frighten, to terrify, to cause an atmosphere of terror, or to strike with fear.”<sup>1</sup> The widespread usage of this term in the Arab world cannot be separated from the effects of terrorism discourse in Western languages, particularly in English and French (Izwaini, 2015: 73-75).<sup>2</sup> Since the beginning of the 80s, the term *irhab* can often be found underlining the political rhetoric in the Middle East, aimed as a condemnation to Israel’s military actions in Palestine (Holtmann, 2014: 141). The Egyptian government also often used this term to describe the violent actions of anti-government Islamic movements.<sup>3</sup>

After the September 2001 incident in the United States, the global communities tend to stigmatize *irhabas* a product of Islamic teachings (Ogan, 2014: 27-46, see also Fair and Savla, 2019: 105). Obviously, the Muslim community automatically responds in various forms, from apologetic clarifications, reformulation of ideological concepts, even up to public admissions. This accusation of terrorism leveled at the majority of Muslims is a serious phenomenon, because it also invites public attention to review Islamic ideology, which are often said to be a strong inspiration of those actions.

However, due to the universality of the concepts of Islamic teachings<sup>4</sup> which manages to last for more than 14 centuries and professed by more than 1.3 billion of Earth's inhabitants, anyone would obviously find it very hard – if not impossible – to find a complete dogmatic textual foundation to the claim that Islam legalizes violence and terror. The widespread hypotheses of this accusation are more often based on extremely biased partial interpretations. They are deployed to justify the idea that the violent terror actions stealing the global public's attention are committed by Muslims (Terrorism Research Initiatives, 2019: 158-185). In this context, the counter-propaganda done by some Muslim elements then are also stuck in the field of conceptual interpretations, reexamining the ideological texts accused to be inspirations for the terror actions through the approach of socio-political and socio-historical analyses.

The idea of correlating terrorism with Islamic elements can be said to be a new phenomenon. Previously, typically violent actions with political aims are viewed as an act of rebellion against the status quo. In fact, these kinds of actions often would be recorded in future history as a fight for liberty, particularly in the period where the global political landscape was dominated by the restructuring and creation of nation-states, from 1920s to 1960s.<sup>5</sup> Nationalism and religion became the 2 most prominent ideologies serving as the “spirit” fueling these movements (Liow and Arosoaie, 2019: 86-113).

Later on, after the forms of nation-states in various parts of the world have crystallized, a shift in political rhetoric in labeling these mass movement actions occurred. Any action opposing the government that involves violence is then labeled as a “disturbance of security” and “terror action”. At the same time, nationalism is sidelined by religion as the central factor mobilizing these actions. Some of the “successes” achieved by these kinds of movements, such as the Iranian Revolution led by Ayatollah Khomeini, assassination of President Anwar Sadat of Egypt, and Hezbollah's militant opposition in Lebanon solidify the assumption that religious inspiration in violent political opposition is a real, important

thing. Ultimately, the world's attention is directed at the violent political situation of the Middle East, and the religious beliefs of most of its populace.<sup>6</sup> It was at this point that a special public attention to Islamic terrorism was formulated.

However, if one observes the ideas that develop internally, the discourse of terrorism among Muslims – especially in the scope of Islamic tradition – is very ‘quiet’ (Fine, 2010: 271-288). The contemporary obsession concerning the issue of terrorism is completely unseen in the tradition of Islamic scientific discourse along its history. In the Qur’an, the term “*irhab*” is never mentioned. The closest we have in the Qur’an is its derivation in the verb form, which appears once, in al-Anfal (8) verse 60 (Holtmann, 2014: 141-142).<sup>7</sup> Interestingly, the word “*yurhibunahum*” in this verse actually has a positive connotation and intended as an advice. Obviously, it would be extremely naive to interpret that verse as a suggestion to perform terrorism, despite the fact that there are some elements of Muslim community that use it as a justification for legalizing violent actions.<sup>8</sup>

If terrorism is taken to mean, “The use of violence to create an atmosphere of terror among the public for political goals”, Islamic history records the existence of this group action from a faction of the Ismailiyyah sect, famously known as the “Assassins”.<sup>9</sup> This group, based in mountain fortresses in most of Persia during 11<sup>th</sup> - 13<sup>th</sup> century AH was a political organization that splintered from the Ismailiyyah sect that formed a secret society, characterized by an oath of absolute obedience to their masters’ orders and adopting the dogma of murdering every enemy that got in their way. During the leadership of Abu Mansur al-Idjli and Mughirahibn Said, this group even declared that the murder of public leaders was the manifesto of their political goals. Among the famous victims of this group are leaders of Abbasid Dynasty, such as Nizam al-Mulk (485H-1092M) and Sultan Malik Shah not long after.<sup>10</sup>

Even though explicitly, the term terrorism was rarely discussed in the traditional Islamic scientific tradition, it doesn’t mean that there is absolutely no related concept in this tradition. A further observation of the Islamic legal tradition, particularly related to concepts concerning the benefits and sanctions of public order (*mu’amalahwa al-jinayah*), yields several terminologies that are almost parallel to terrorism. Concepts such as *hirabah*, *qath’ al-thariq*, and *ahkam al-bughah* are some of the examples of that. An important thing to note is the fact that the discourse of these topics tend to be free from political undertones, due to the fact that historically, the development of these concepts came from individuals independent from the state’s influence, but whose authority are acknowledged by the

people.<sup>11</sup> Thus, their discussion of these concepts focused more on public order or the social harmony dimension, rather than the perspective of retaining power. This is the factor differentiating the classical and contemporary discussions of terrorism.

### **Tracing the Discourse of Terrorism in the Classical Islamic Scientific Tradition**

Tracing the roots of modern discourse among the Muslims is usually done through analogy with similar issues that had been discussed by the previous generation of thinkers. The field of *Fiqh* (legal tradition) is usually used as the main subject of reference. Every Muslim of every generation believe that all aspects of their life has to always be based on Allah's commandments in Al-Qur'an and the guidance of His Messenger through Sunnah. The tradition of *Fiqh* study operates in this domain, because it discusses the various prescriptions about what should and should not be done by each Muslim, both individually and collectively in performing the entirety of their daily life so that they are always guided by the divine revelations.

True, terrorism is a new phenomenon. However, if we inspect its characteristics and criteria in detail, it would be revealed as a new form of an old phenomenon, repeated in history. Basing the definition of terrorism on US's Federal Bureau of Investigation's version, the criteria of terrorism are: *First*, the illegal usage of power in violent actions. *Second*, causing casualties and losses, along with both individual and property damages. *Third*, causing an atmosphere of terror that disrupts the running of government and public order. *Fourth*, has a political aim, in the sense that the actual targets reach much wider than the victims of the real actions.<sup>12</sup> From these 4 elements, the third point is the most basic element. The rise of an atmosphere of terror is the dominant factor in terrorism.

Violent actions that create an atmosphere of terror or gripping fear among the people had attracted special attention in classical Islamic legal studies, and its legal construction can be found in the discussion about the concept of *Hirabah*. Ibn 'Abd al-Barr (d.463/1070), a Spaniard *Fiqh* expert of the Maliki school, defined *Hirabah* as an action of blockading public roads that causes that road to be unsafe for travel and spread terror by robbing, murdering, and other actions forbidden by God, whether done by a Muslim or not, a free man or slave, and aware of their intentions or not in robbing and killing.<sup>13</sup> Al-Kasani (d.587/1191) from the Hanafi school equated *Hirabah* with *Qath' al-Thariq* and defined them as an act of assault to the users of a road in order to seize their belongings by force, spreading fear and making people unable to pass the road freely.<sup>14</sup> A *Fiqh* expert of the Syafi'i school,

Imam al-Nawawi (d.676/1277) stated that anyone who raises their weapons and spread terror on the road, either in the city or out of it, has to be dealt with by the rulers, because if they are ignored, their power would increase and the crimes of robbery, murder, and general atmosphere of terror would spread further.<sup>15</sup> Meanwhile, IbnQudamah of the Hanbalischool defined *Hirabah* as an action of openly armed blockade of the streets for travelers in a desert area far from settlements with the intention to rob the travelers.<sup>16</sup> He stated that his fellow Hanbali scholars actually take a step further and categorize as *Hirabah* every action of street blockade everywhere, and that those performed in intra-city streets are actually more frightening and impactful.<sup>17</sup>

From these definition samples stated by experts representing the four main schools of Islamic Fiqh, it can be concluded that the main characteristics of *Hirabah* are the spreading of fear (*ikhafah*), powerlessness (*'adam al-ghauts*), and the lack of effective security measures to stop it (*ta'adzzur al-ihiraz*). Concerning these characteristics, al-Nawawi noted that the previous generation of scholars, such as Imam Malik and Abu Hanifah, limit *Hirabahto* incidences happening in isolated and uninhabited areas, with the reasoning that it is in these areas where travelers feel afraid and powerless, while those happening in inhabited areas cannot be classed as *Hirabah*, because the would-be victims can easily ask for help.<sup>18</sup> The same reasoning was also used by IbnQudamah when limiting *Hirabahto* incidences happening in the middle of the desert routes.<sup>19</sup> The element of spreading fear and powerlessness as the main excess can also be seen in the rationalization of the majority of Syafi'i-school scholars that exclude actions of robbery and murder inside the city that was caught by the public. Public knowledge of the details of the crime prevents the element of terror and powerlessness from arising, thus disqualifying the action from being considered as *Hirabah*.<sup>20</sup>

The centrality of the spread of fear and powerlessness as the main factor of *Hirabahis* also stressed by other Fiqh experts, even though by using opposite case examples. IbnTaymiyah (d.728/1328) stated that a landlord, doctor, or artisan who lured people to come to their business office, to then murder them secretly in order to gain their wealth can also be categorized as *Hirabah*. This secret act of crime, according to IbnTaymiyah, is no different from crimes that pay no attention to who noticed it, as both create an atmosphere of terror and there are no effective security measures to combat them.<sup>21</sup> Another example was put forward by al-Kasani. He stated that the majority of Hanafi-school scholars, including Imam Abu Hanifah himself exclude actions performed by women. The common

assumption that women tend to not do actions that can cause terror and powerlessness cause similar actions done by women to be not categorized as *Hirabah*.<sup>22</sup>

The fatality of its effect makes *Hirabah* different from regular murders, usually referred to as *Qishash*. In the regular *Qishash* law adopted by most schools except Hanafi, a murder done by a Muslim of a non-Muslim would only be punished by payment of blood fine, not a death penalty to the culprit. However, in *Hirabah*, all culprits are treated the same, no matter their beliefs. This difference is because *Hirabah* is no mere interpersonal crime, so the personal beliefs of the victims have no relation to the punishment given to the culprits. Even figures such as Ibn Taymiyah, who tend to be antagonistic towards non-Muslim, preached a harsh punishment for Muslim *Hirabah* culprits who victimized non-Muslims. According to him, the punishment is not in the name of the victims' families, but must be in the name of the state's authority, because *Hirabah* is a crime towards the common good of the public.<sup>23</sup> Similar opinions were also voiced by scholars of the Maliki school. al-Dardir (d.1201/1786) and al-Sawi (d.1241/1825) implied that if a Muslim breaks into the house of a non-Muslim forcefully, and then the non-Muslim managed to kill the Muslim robber in order to defend their family and wealth, then the murder must be categorized as self-defense.<sup>24</sup>

*Hirabah* is also different from crimes involving illegal control of wealth, referred to in Fiqh as *haddor Hudud*. Even though the examples elaborated above depict the element of illegal seizure or control of wealth dominantly, it doesn't mean that *Hirabah* can be equated with other crimes such as armed robbery, kidnapping, or banditry. The motive of wealth-seeking might be a reason why someone commits *Hirabah*, but that's not the main reason why it is categorized as *Hirabah*. The factor of spreading gripping fear and powerlessness is the main differentiating point between *Hirabah* and illegal control of wealth, often referred to as *ghasb*.

In his book, *al-Syarh al-Shagir*, Ahmad al-Dardir cited a definition given by Ibn al-Hajib (d.646/1248) which stated that *Ghasb* is the action of taking someone else's wealth illegally and by force, but not through *Hirabah*.<sup>25</sup> Al-Dardir underlined this definition as an 'inadequate' definition, since it requires prior understanding of the concept of *Hirabah*. He stated that this weakness can be covered if the words, "not through *Hirabah*" (*bi la hirabah*) are replaced with the words, "not cause a fear of being murdered" (*bi la khawfiqatlin*)<sup>26</sup>. From this explanation, it can be concluded that the thing that separates *Hirabah* from *Ghasb* is not in the element of seizing wealth, but in the element of spreading fear. This spreading of

fear is obviously not just limited to the victim in the moment of the crime, where they have to surrender their wealth. However, the big effect of *Hirabah* is that it will also spread terror to other people, hampering public order and activity due to the threat to their lives.

Based on this understanding, al-Dardir and Maliki-school scholars after him step even further in their legal thinking concerning *Hirabah*. They also applied the core characteristic of *Hirabah*, the spreading of fear and powerlessness, to other crimes, even when the motive of wealth seizure is totally absent from them. Explicitly, al-Dardir defined *Hirabah* as the action of blockading streets (*qath' al-thariq*), spreading terror there by depriving the people of their rights to cross the road freely, even without the intent to seize the wealth of those passing the road.<sup>27</sup> A commentator of al-Dardir, Ahmad al-Sawi made the last part of al-Dardir's definition clearer by stressing that even if the culprits' intentions is merely obstructing people from freely passing the road, it still counts as *Hirabah*.<sup>28</sup> Another al-Dardir commentator, Syams al-Din al-Dasuqi (d.1230/1815) was even more explicit in his explanation. He stated that *Hirabah* is an action performed by someone to spread terror in the streets with the intention to prevent people from crossing the road freely. Even if the culprit has no intention to seize the wealth of those passing the road, as long as they are spreading terror and making other people unable to make use of the road, they still can be punished for *Hirabah*.<sup>29</sup> Al-Dasuqi and also other figures mentioned before also focused on the factor of spreading fear and powerlessness in order to label other crimes, such as poisoning and usage of deadly drugs as also *Hirabah*. In fact, both al-Dardir, al-Sawi and al-Dasuqi even seems to acknowledge the existence of *state-terrorism*, when they explicitly count as *Hirabah* the tyrannical actions of the then current governor of Egypt who seized his citizens' wealth, withheld their salaries and attacked their settlements, when nobody can stop those crimes.<sup>30</sup>

From the above explanation, it can be concluded that *Hirabah* is an extraordinary crime. Its definition is always developed by Fiqh experts to cover criminal acts which tension exceeds normal regular crimes such as theft, robbery, or murder. *Hirabah* has a wider scope due to its excesses giving rise to an atmosphere of terror and powerlessness among the people. This condition is almost identical to the concept inherent in terrorism, an extraordinary crime beyond the boundaries of regular criminal acts.

Consequently, the punishment meted out to culprits of *Hirabah* is also very severe. The rationalization of this severity, according to Muhammad ibn Ahmad al-Qurthubi, a Fiqh expert of the Maliki School, is that *Hirabah* is an extremely destructive action then disturbs

common life and livelihood. Trade is the largest source of livelihood for the common people, and they need security and liberty of access to participate in it. However, when those 2 factors are disturbed by terror, people would cease their activities and forced to stay at home, stalling trade and disturbing their livelihood. Thus, according to al-Qurthubi, God sets the most severe punishment for *Hirabah*, in order to shame and discouraged would-be criminals, and maintains people's livelihood from ceasing.<sup>31</sup>

The most severe form of punishment referred to by al-Qurthubi is written clearly in a verse of al-Qur'an, which is the epicenter of the entire study about *Hirabah*. The verse is as follows:

The punishment for those who fight God and His Messenger, and strive to spread corruption on earth, is that they be killed, or crucified, or have their hands and feet cut off on opposite sides, or be banished from the land. That is to disgrace them in this life; and in the Hereafter they will have a terrible punishment. Except for those who repent before you apprehend them. So know that God is Forgiving and Merciful. (Q.S. Al-Maidah/5: 33-34)

This text about the punishment for *Hirabah* is extremely clear, and Fiqh scholars agreed on the literal interpretation of this verse. A difference in opinion only occurs concerning at least three matters. *First*, in interpreting the meaning of the connecting word “*aw*” which means “or” that separates each of the four punishments mentioned in the verse. The majority of scholars from the Hanafi, Syafi'i and Hanbali schools interpret it as indicating a sequential order (*tartib*) in punishment. If the culprit of *Hirabah* commits murder without seizing wealth, their punishment is murder too. If they *do* commit murder accompanied by seizure of wealth, their punishment is to be killed and crucified. If they only seize wealth without any murder, then their hand and foot are chopped crosswise, and if they do not commit either murder or seizure of wealth at all in the course of *Hirabah*, then their punishment is merely to be exiled.<sup>32</sup> Meanwhile, according to the Maliki School, the word “*aw*” in the verse implied a meaning of choice (*takhyir*) in punishment, which is left to the judge's discretion. In this school's view, a culprit of *Hirabah* can be sentenced to death and crucifixion, even if they did no murder or seizure of wealth, because their actions cause the spread of fear and powerlessness, as well as triggering other severe crimes to occur. Imam Malik himself even once stated that someone who only commits *Hirabah* without any murder would spread fear wider and deeper among the people, compared to someone who commits regular murder.<sup>33</sup>

The *second* point of difference is the minimum amount of wealth seized, before a culprit of *Hirabah* can be sentenced to crosswise hand-and-foot chopping. For regular thefts, someone is only sentenced to hand-chopping if the wealth they stole exceeds the limit (*nisab*) of a quarter Dinar. Does the same limit also apply to the amount of wealth seized in *Hirabah*? Syafi'iyah,<sup>34</sup> Hanbaliyah<sup>35</sup> and the majority of Hanafiyah<sup>36</sup> scholars, with several qualifications, set the same limit as regular thefts. Meanwhile Malikiyah scholars consider that there is no special limit, because in their opinion any culprit of *Hirabah* deserves to be sentenced to amputation, no matter how much wealth they have seized.

The *third* difference is the question, “must supporters of the *Hirabah* action who do not directly participate in the act of murder and/or wealth seizure be punished equal to those who are directly involved?” The school of Syafi'i states that only those who are directly involved can be sentenced for *Hirabah*.<sup>37</sup> Meanwhile, the schools of Hanbali, Hanafi and Maliki states that anyone involved in *Hirabah* will be sentenced to the same punishment, no matter whether they are directly involved or not.<sup>38</sup>

In the case of someone repenting from *Hirabah* there is almost no difference in opinion. All schools agree in interpreting the verse, which implies that if a culprit of *Hirabah* repented before being captured, and shows sincere regret and serious dedication to change, then the mandatory punishments of death, crucifixion, amputation, and exile will be postponed and left to the domain of “God’s Right” (*haqq Allah*) to forgive. However, this does not mean that the civil rights (*haqqadamy*) of the victims are ignored. The victims (‘s family) can still demand execution and compensation of their rights.<sup>39</sup>

From all these lengthy discussion, it is clearly illustrated that the connection between the concept of *Hirabah* in classical Islamic legal discourse and terrorism in modern discourse lies in their main element, of spreading fear, atmosphere of terror, and powerlessness among the populace. Then, what about the element of political goals, which is also a main element of terrorism? Does *Hirabah* also involve intrinsic political motives as one of its main elements?

During the era of Umayyad reign and early Abbasid reign, every violent opposition towards the government is usually suppressed using these harsh punishments of *Hirabah*.<sup>40</sup> Some Fiqh experts in the early centuries of Islam also applied the label of *Hiraba* to armed groups conspiring to commit violence in order to overthrow the government and the Islamic governance system.<sup>41</sup> However, the sentencing of *Hirabah* sanctions for political rebellions is often based on the motive of revenge and eradication. Thus, later on Fiqh experts

formulated a new legal concept that separated the acts of political rebellions from *Hirabah*. This new legal concept would later be known as *Ahkam al-Bughat*.

The basis of the legal formulation of *Bughat* is the approach taken by Caliph Ali ibnAbiThalib against his detractors<sup>42</sup> as well as based on al-Qur'an 49: 9-10.<sup>43</sup> Based on this legal formulation, rebellions only need to be suppressed, and the captured rebels cannot be killed and/or tortured; and after their rebellion ended and they repented, then they must be released with no punishment. They are not held responsible for any murder and/or property destruction committed during the rebellion. They can only be punished for crimes committed outside the aims of the rebellion, such as rape.<sup>44</sup>

At the very least, there are 2 main factors that differentiate an act of rebellion (*Baghy*) completely from an act of *Hirabah*, in the eyes of Islamic law. *First*, an act of rebellion in Islam is usually based on a difference in *ta'wil* or interpretation that is acceptable, at least among the rebels themselves. If the rebels' *Ta'wilis* that their actions are based on the spirit of *amr bi al-ma'ruf wanahy 'an al-munkar* and fulfilling their duties as a Muslim, then their rebellion cannot be classed as *Hirabah*.<sup>45</sup> *Second*, the act of rebellion must fulfill the factor of power and preparation, which is indicated by having enough troops and arsenal. Fiqh experts disagree on this limit. Al-Qarafi implies that the minimum amount of troops involved is 10 personnel. However, he stressed that the main consideration is not the raw number of people, but the level of support. The more support a rebellion garnered, the more accepted the basis *ta'wil* of the movement. Thus, the rebellion cannot be categorized as *Hirabah*. Meanwhile, the fewer the number of personnel/support of the rebellion, the less legitimate it is, and the closer it is to *Hirabah*.<sup>46</sup>

The rise of Islamic State of Iraq and Syria (ISIS/ISIL) in 2014 has torched the light on the revival of this traditional Fiqh discourse. The group's ability to attract Muslims around the globe using its version of Islamic laws has forced leading Muslim scholars and Islamic authoritative institution to issue counter-interpretation. Using this traditional Fiqh approach, Grand Sheikh of Al-Azhar Ahmed al-Tayeb, for instance, denounced the group's' brutality by saying that ISIS had committed appalling acts against humanity and crimes against Muslims and non-Muslims alike and that it had to be fought with force and determination (Maged, 2015). Al-Tayeb based his view on the verse of *Hirabah* which states: "*The punishment for those who wage war against God and his Prophet and who strive to sow corruption on earth is death, crucifixion, the severing of hands and feet on opposite sides or banishment from the land. This is the disgrace for them in this world and in the*

*hereafter they will receive grievous torment.*”<sup>47</sup> In his denunciation of ISIS, Ahmed al-Tayeb, along with The Mufti of Nigeria Sheikh Ibrahim Saleh Al-Hussaini, rejected the labeling of the group’s member as apostates (Asharq Al-Awsat, 2014).

Similarly, 126 Islamic law scholars from across the continents has issued an open letter<sup>48</sup> to ISIS leader Abu Bakr al-Baghdadi, criticizing his self-appointment as a caliph and the group’s claim of Islamic authenticity and behavior. The 17-page letter is point per point discussion meticulously specifying ISIS’ misconceptions of shari’a by referring to scriptures and lying on religious legal precedent as did the traditional Fiqh discourses. The Organization of Islamic Conference (OIC) employed parallel method by creating an online messaging center designed to counter extremist propaganda and deconstruct violent ideologies, which was called the Voice of Wisdom: Center for Dialogue, Peace and Understanding (Ansari, 2017). This tendency, then, become a model for countering terrorism in Muslim communities and has been adopted by countries such as Indonesia and Malaysia.

## **Conclusion**

Over its 15 centuries of existence, Islam has gathered a rich perspective on responding to societal problems. Thus, as one of the many phenomenons in societal life, terrorism, or a very similar concept, is surely also covered in traditional Muslim wisdom. Traditional *fiqh* discourse is the most comprehensive discourse in dealing with actual societal problems along the course of time. In the case of modern terrorism, an almost identical concept can be found in *fiqh* discourses concerning *hirabah*, *qath'uThoriq* and *Bughat*. However, in order to determine which of these concepts is the most applicable to modern terrorism, further research is needed.

Some of research findings on global Muslim opinion suggest that majority of Muslim communities favor larger role of religion in their public and political life (Esposito & Mogahed, 2008; PEW Research Center, 2012). This sign of Muslim inclination can be a departing point for governments of Muslim countries to implement Fiqh discourse in resolving societal and political problems such us terrorism and other forms of social conflict.

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<sup>1</sup> Munir Ba'albaki, *al-Mawrid*, (Rembang: Halim Jaya, 2006), page 424. See also Mahmud Yunus, *Kamus Arab-Indonesia*, (Jakarta: Hida Karya Agung, 1990), 6<sup>th</sup> edition, page 148. Besides those general meanings, the derivations of *arhaba* also have other meanings, such as priesthood, the part of a camel's hump where saddle is placed, a shirt's sleeves, etc. See Louis Ma'louf, *al-Munjid fi al-Lughah wa al-A'lam*, (Beirut: Dar al-Masyriq, 1986), 17<sup>th</sup> edition, page 282. A more detailed explanation of the alternative meanings of *arhaba* can also be seen in Ibn Manzhur Jamaluddin Muhammad ibn Mukarram al-Anshari, *Lisan al-'Arab*, (Kairo: Dar al-Mishriyyah, 1968), vol. II, page 420-423.

<sup>2</sup> See "Terrorism" in Richard C. Martin, (eds.), *Encyclopedia of Islam and the Muslim World*, (New York: Thomson and Gale, 2004), vol. II, page 691-693

<sup>3</sup> Richard C. Martin, (eds.), *Encyclopedia of Islam and the Muslim World*.

<sup>4</sup> See reference about Islam's universalism in M. Quraish Shihab, *Membumikan al-Qur'an*,

<sup>5</sup> See "Terrorism" in John L. Esposito, *Ensiklopedi Oxford: Dunia Islam Modern*, (Bandung: Mizan, 2002), Volume VI, 2<sup>nd</sup> edition, pages 33-37.

<sup>6</sup> Richard C. Martin, (eds.), *Encyclopedia of Islam and the Muslim World*, and John L. Esposito, *Ensiklopedi Oxford: Dunia Islam Modern*.

<sup>7</sup> The verse's text is as follows:

وَأَعِدُّوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوَّةٍ وَمِنْ رِبَاطِ الْحَيْلِ تُرْهِبُونَ بِهِ عَدُوَّ اللَّهِ وَعَدُوَّكُمْ وَءَاخِرِينَ مِنْ ذُنُوبِهِمْ لَا تَعْلَمُونَهُمُ اللَّهُ يَعْلَمُهُمْ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فِي سَبِيلِ اللَّهِ يُوَفَّ إِلَيْكُمْ وَأَنْتُمْ لَا تُظْلَمُونَ ﴿١٠١﴾

Departemen Agama RI, *Al-Qur'an dan Terjemahannya*, (Jakarta: Depag RI, 1990), hal.

<sup>8</sup> There are several scientists that argue that this verse is an argument for the legality of terrorism. This view is also adopted by hardliner Islamic movements, such as the group mobilized by Imam Samudera and other convicts of Bali bombings. Further discussion about this can be found in other parts of this writing.

<sup>9</sup> This term appears in European history literatures about the Crusades. "Assassins" is a term coined by French historians for this group, which refers to their habit of consuming *Hashish* (a kind of African marijuana) as a medium for ascetic rituals. Ibn Khaldun refers to this group as the "*Fidawiya*". See H. A. R. Gibb & J. H. Kramers, *Concise Encyclopedia of Islam*, (Leiden: E.J. Brill, 2001), page 48

<sup>10</sup> H. A. R. Gibb & J. H. Kramers, *Concise Encyclopedia of Islam*, pages 48-49

<sup>11</sup> Sherman A. Jackson, "Domestic Terrorism in the Islamic Legal Tradition", in *The Muslim World*, Fall 2001: 91, 3/4, page 294

<sup>12</sup> B.L. Smith, *Terrorism in America*.

<sup>13</sup> Ibn 'Abd al-Barr, *al-Kafi fi Fiqh Ahl al-Madinah al-Maliki*, (Beirut: Dar al-Kutub al-'Ilmiyah, 1997), pages 582-583

<sup>14</sup> Ala' al-Din Abu Bakr ibn Mas'ud al-Kasani, *Bada' I al-Shana 'I fi Tartib al-Syara 'i*, (Beirut: Dar al-Kutub al-'Ilmiyah, 1997), Volume 9, page 360.

<sup>15</sup> Al-Nawawi, *Kitab al-Majmu'*, (Kairo: Dar Ihya al-Turats al-'Arabi, 1995), Volume 22, page 227

<sup>16</sup> Ibn Qudamah, *al-Mughni*, (Beirut: Dar al-Kutub al-'Ilmiyah, t.t), Volume 10, page 315

<sup>17</sup> Ibn Qudamah, *al-Mughni*, Volume 10, page 303

<sup>18</sup> Al-Nawawi, *Kitab al-Majmu'*, Volume 22, page 232

<sup>19</sup> Ibn Qudamah, *al-Mughni*.

<sup>20</sup> Al-Nawawi, *Kitab al-Majmu'*, Volume 22, page 233

<sup>21</sup> Ibn Taymiyah, *Majmu' Fatawa Ibn Taymiyah*, Volume 28, page 316

<sup>22</sup> Ala' al-Din Abu Bakr ibn Mas'ud al-Kasani, *Bada' I'*, Volume 9, page 361

<sup>23</sup> Ibn Taymiyah, *Majmu' Fatawa Ibn Taymiyah*, Volume 28, page 311. Some Maliki scholars stated that the punishment for *Hirabah* is "God's Right", in contrast to *Qishash*'s, which is "Adam's Right"; see al-Qadhi 'Abd al-Wahhab, *al-Ma'unah 'ala Madzhab 'Alim al-Madinah*, (Mekkah: Nizar M. al-Baz, 1995), jilid 2, hal. 1366

<sup>24</sup> Ahmad Al-Dardir, *Al-Syarh al-Shagir*, 2:404, dan Ahmad al-Sawi, *Bulghat al-Salik li Aqrab al-Masalik ila Madzhab al-Imam Malik*, (Cairo: al-Maktabah al-Tijariyah al-Kubra, t.t), Volume 2, page. 404.

<sup>25</sup> Ahmad Al-Dardir, *Al-Syarh al-Shagir*.

<sup>26</sup> Ahmad Al-Dardir, *Al-Syarh al-Shagir*.

<sup>27</sup> Ahmad Al-Dardir, *Al-Syarh al-Shagir*

<sup>28</sup> Ahmad al-Sawi, *Bulghat al-Salik*, page 403

<sup>29</sup> Syams al-Din al-Dasuqi, *Hasyiyat al-Dasuqi 'ala al-Syarh al-Kabir*, (Cairo: Dar al-Fikr, t.t), Volume 4, page 348

<sup>30</sup> Syams al-Din al-Dasuqi, *Hasyiyat al-Dasuqi*, dan Ahmad al-Sawi, *Bulghat al-Salik*, page 404

<sup>31</sup> Muhammad ibn Ahmad al-Qurthubi, *al-Jami' li Ahkam al-Qur'an*, (Beirut: Dar al-Fikr, 1999), Volume 3, page 88

<sup>32</sup> Ala' al-Din Abu Bakr ibn Mas'ud al-Kasani, *Bada' I'*, Volume 9, pages 370-371

<sup>33</sup> Malik ibn Anas, *al-Mudawwanah al-Kubra*, (Beirut: Dar al-Fikr, 1986), volume 4, page 428

<sup>34</sup> Al-Nawawi, *Kitab al-Majmu'*, Volume 22, page 233

<sup>35</sup> Ibn Qudamah, *al-Mughni*, Volume 10, pages 312-313

<sup>36</sup> Ala' al-Din Abu Bakr ibn Mas'ud al-Kasani, *Bada' I'*, Volume 9, page 363

<sup>37</sup> Al-Nawawi, *Kitab al-Majmu'*, lihat juga Abu al-Hasan 'Ali ibn Muhammad ibn Habib al-Mawardi, *al-Hawi al-Kabir fi Fiqh Imam al-Syafi'I*, (Beirut: dar al-Kutub al-Ilmiyah, 1994), Volume 13, page 363

<sup>38</sup> Al-Mawardi, *al-Hawi*, Ibn Qudamah, *al-Mughni*, Volume 10, page 308, Malik ibn Anas, *al-Mudawwanah*, page. 430

<sup>39</sup> Al-Nawawi, *Kitab al-Majmu'*, Volume 22, pages 242-243, Ala' al-Din Abu Bakr ibn Mas'ud al-Kasani, *Bada' I'*, Volume 9, pages 373-374, Ibn Qudamah, *al-Mughni*, Volume 10, pages 314-315, and Ahmad Al-Dardir, *Al-Syarh al-Shagir*, 2:404-405

<sup>40</sup> Sherman A. Jackson, "Domestic Terrorism in the Islamic Legal Tradition", page 302.

<sup>41</sup> See al-Jashshash, *Ahkam al-Qur'an*, (Beirut: Dar al-Kutub al-Ilmiyah, 1994), volume 1, pages 508-510

<sup>42</sup> Caliph Ali ibn Abi Thalib did not give punishments to the Companions who opposed his government. The Camel War, sparked by Thalhah, Zubair, and 'Aisyah was suppressed, and Ali did not punish 'Aisyah. The same treatment was given towards the rebellion of Syria's governor, Muawiyah Ibn Abu Sufyan, or the Khawarij. See Sherman A. Jackson, "Domestic Terrorism in the Islamic Legal Tradition".

<sup>43</sup> Ayat tersebut berbunyi :

وَإِن طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا فَإِن بَغْت إِحْدَاهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا الَّتِي تَبْغِي حَتَّى  
49:9 تَفِيءَ إِلَى أَمْرِ اللَّهِ فَإِن فَاءَتْ فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ -  
49:10 إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ -

<sup>44</sup> Khaled Abou El Fadl, "Ahkam al-Bughat: Irregular Warfare and the Law of Rebellion in Islam", in J.T. Johnson and John Kelsay (eds.), *Cross, Crescent and Sword: The Justification and Limitation of War in Western and Islamic Traditions*, (New York: Greenwood Press, 1990), pages 153, 160

<sup>45</sup> Khaled Abou El Fadl, "Ahkam al-Bughat:...", pages 157-158

<sup>46</sup> Khaled Abou El Fadl, "Ahkam al-Bughat:...", page 160. See also Syihab al-Din al-Qarafi, *al-Dzakirah*, (Dar al-Gharb al-Islami, 1994), jilid 12, hal. 6.

<sup>47</sup> The verse is on Qur'anic chapter al-Ma'idah Q5:33

<sup>48</sup> Available at <http://www.lettertobaghdadi.com/> accessed on September 9, 2021.