

# Jihadism in the Italian Prison System: Some Critical Notes

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**Abstract:** The words “jihād” and “jihādism” in the Italian language are often used as synonymous and associated with the phenomenon of radicalization of detainees in the prison system. This article tries to unpack this common association of ideas and outline some significative differences between the meanings of those notions in the Islamic legal and political tradition. Moreover, taking into account the proposal of a contemporary Muslim thinker – Jawdat Sa’id – about a “Self-Critical Jihadism” in the pluralistic society, this Article tries to outline new ways of inspiring de-radicalization’ processes in the Italian prison system at the present day.

**Keywords:** Jihad; Jihadism; De-radicalization; Prison system; Jawdat Sa’id.

## 1. Different meanings of “jihād” and “jihādism”

The word “*jihād*” derives from the Arabic root \**j-h-d*, which actually refers to the meaning of “striving”, of “attempting” and thus also of “fighting”. *Jihād* is generically a meritorious struggle or effort and, particularly in the religious and ethical realm, refers to the human struggle to promote what is right and to prevent what is wrong:

In the Qur’ān, *jihād* is a term with multiple meanings. During the Meccan period (c. 610–622 ce), when the Prophet Muhammad received revelations of the Qur’ān at Mecca, the emphasis was on the internal dimension of *jihād*, termed *ṣabr*, which refers to the practice of “patient forbearance” by Muslims in the face of life’s vicissitudes and toward those who wish them harm. The Qur’ān also speaks of carrying out *jihād* by means of the Qur’ān against the pagan Meccans during the Meccan period (25:52), implying a verbal and discursive struggle against those who reject the message of Islam. In the Medinan period (622–632), during which Muhammad received Qur’ānic revelations at Medina, a new dimension of *jihād* emerged: fighting in self-defense against the aggression of the Meccan persecutors, termed *qitāl*. In the later literature—comprising Hadith, the record of the sayings and actions of the Prophet; mystical commentaries on the Qur’ān; and more general mystical and edifying writings—these two main dimensions of *jihād*, *ṣabr* and *qitāl*, were renamed *jihād al-naḥs* (the internal, spiritual struggle against the lower self) and *jihād al-sayf* (the physical combat with the sword), respectively. They were also respectively called *al-jihād al-akbar* (the greater *jihād*) and *al-jihād al-aṣghar* (the lesser *jihād*)<sup>1</sup>.

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<sup>1</sup> See, for a general overview, P. Manduchi, N. Melis, *Ĝihād. Definizioni e riletture di un*

During the period of the establishment of the classical jurisprudence (*fiqh*), Muslim jurists were primarily concerned with issues of state security and military defence of Islamic state. Accordingly, when elaborating the principles of international law (*dar al-harb*), they focused primarily on *jihād* as a military duty, which became the predominant meaning in the legal literature.

However, outside this specialistic legal meaning, the idea of *jihād* continued to draw – widely – the boundaries of the moral behaviour of Muslims: for example, from the same Arabic root \**j-h-d* the word *ijtihad* is derived, which refers to the meritorious and hard attempt to extract from the sources of the law a correct interpretation to regulate and order the life of a Muslim society. Moreover, other two words derive that connect the two poles of Muslim moral behaviour, in the military context or not: on one side, the *mujahid*, the fighter who sacrifices himself and his life to the cause of God, possibly destroying that of others. On the other side, the *mujtahid*, the doctor of law who deals with politics by extracting legal norms from texts and religious sources and whose office does not represent a right or a power, but an obligation and responsibility to the community.

In other words, the notion of “*jihād*” in the Islamic tradition covers all the spectrum of behaviours of the Muslim who aims at promoting the right and preventing the wrong, from the fighter to the lawyer, from the martyr to the judge so that the correct meaning depends always on context.

From the word “*jihād*” it comes the word “*jihād-ism*”. This process does not derive from the Arab semantics, but from the Western linguistics, where it is common to add a suffix – notably a letter or group of letters – to the end of a word in order to form a different word, often of a different class. Commonly speaking, contemporary “Jihadism” has rescued and emphasized the military aspect of practicing *jihād* and has been related with radical Islam, war and terrorism. This linguistic use has obscured other meanings referring to moral commitment, study, and legal interpretation, so that they are totally ignored in the West<sup>2</sup>.

Obviously, *jihādism* does exist and is a concrete menace to safety and convivence in the Middle East and Europe as well, but it should be remarked that some forms of contemporary *jihādism* are grounded more on the political field than on the religion itself: as a matter of fact, religions were tools to provoke violence or instruments for politicians to mobilize support for war, and eventually ideologies to justify exclusion and discrimination. Furthermore, also social disparities and feelings of deprivation foster the process of radicalisation, which includes a sense of being victimised,

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*termine abusato*, Milano, 2020; see also, A. Afsaruddin, *Jihād*, [www.britannica.com/topic/jihād](http://www.britannica.com/topic/jihād), last updated: Sept 8th, 2022. Jihad’s analysis must refer to a comprehensive understanding of the Islamic legal system, on this point see A.M. Evon, R. Ahmed, *The Oxford Handbook of Islamic Law*, Oxford University Press, Oxford, 2018.

<sup>2</sup> E. Kendall, E. Stein (eds.), *Twenty-First Century Jihad. Law, Society and Military Action*, London-New York, 2015. For example, in this book there is no chapter referring to this linguistic nuance. See also B. Purwanto, A.J. Fenton, *Inappropriate Use of Words ‘Jihadist’ and ‘Islamist’ in Western Media’s Reports on Bombing Attacks*, in *Journal of Communication and Public Relations*, Vol. 1, No. 2, June 2022, pp. 13-20.

thwarted or lacking agency in established legal and political structures, and falling under “us vs them” identity formulations.

Outside these cases, in which political and social reasons prevail over religion, or overlap it, religion matters and religious re-education could be an effective strategy to contrast *jihādism*: being *jihādism* and radicalization phenomena connected with a historical interpretation of Islam and with a deviant interpretation of the religious experience, the religious re-education and the possibility to be back to the correct values of Islam should be the main strategy to contrast the process of radicalization, especially in jails. After all, the word “de-radicalization” refers more to having care of the roots of a person, rather than totally eradicating them<sup>3</sup>.

In this vein, this paper tries to unpack the common association of *jihād* and *jihādism*, highlighting the relevant differences between the meanings of those notions in the Islamic legal and political tradition. Remarking the opposition (or the polarization) between the military and the moral nuances is possible to enforce a moral meaning of jihad that can be helpful for Muslim detainees. When it comes to *jihād* in the prison system, this paper supports the idea that re-education is better than repression. Eventually, taking into account the proposal of a contemporary Muslim thinker – Jawdat Sa‘id – about the relevance of “Self-Critical Jihadism” in the pluralistic society, this Article tries to outline new ways of inspiring de-radicalization processes in the Italian prison system at the present day.

## 2. *Jihād*, radicalism, and terrorism in Italian prisons: a threefold strategy grounded on bare punishment

*Jihādism* is present in Italy and represents a concrete threat to pacific convivence. Unfortunately, “[t]he Italian approach in shaping de-radicalisation responses is undoubtedly still under construction”<sup>4</sup>, and *jihādism* has been managed so far only through by policies and measures of criminal repression. More specifically, a threefold system has been enacted, in which main levers are the following: firstly, establishment and enforcement of a high security circuit reserved to International Islamic Terrorists. According to 2019 data<sup>5</sup>, *jihādists* detainees are present in Italian prisons, even though their presence is still rather limited: according to official report<sup>6</sup>, until October 2018 there were 66 detainees who were either awaiting trial or already sentenced for crimes related to “international Islamic terrorism”. These individuals are placed under the “High Security 2”

<sup>3</sup> I thank Ignazio De Francesco for this notion, in his entry I. De Francesco, *Deradicalizzazione*, in L. Barbari- F. De Vanna (a cura di), *Il diritto al viaggio. Abbecedario delle migrazioni*, Giappichelli, Torino, 2018.

<sup>4</sup> See V. Federico, G. Spanò, *Deradicalisation and Integration: Legal and Policy Framework*, Italy/Country Report, WP4, December 2021, document available for download at [www.draddproject.com](http://www.draddproject.com), p. 7 and more specifically p. 32.

<sup>5</sup> F. Marone, M. Olimpio, *Jihadist Radicalization in Italian Prisons: a Primer*, [www.ispionline.it/sites/default/files/pubblicazioni/analysis\\_ismi\\_2019\\_jihadist\\_radicalization\\_marone\\_olimpio.pdf](http://www.ispionline.it/sites/default/files/pubblicazioni/analysis_ismi_2019_jihadist_radicalization_marone_olimpio.pdf), p. 7.

<sup>6</sup> Italian Ministry of Justice - Department of Penitentiary Administration, *Relazione del Ministero sull'amministrazione della giustizia anno 2018*, January 2019, [www.giustizia.it/resources/cms/documents/anno\\_giudiziario\\_2019\\_dap.pdf](http://www.giustizia.it/resources/cms/documents/anno_giudiziario_2019_dap.pdf)

(Alta sicurezza 2, AS2) “circuit” (circuito) that is reserved for “subjects awaiting trial or convicted for crimes related to terrorism (including international [terrorism]), or the eversion of democratic order through violent acts”. These inmates are rigorously separated from other common detainees in order to avoid the establishment of dangerous connections.

Secondly, flagging radical inmates by means of specific indicators: the Penitentiary Police is responsible for monitoring other detainees flagged for radicalization using some “indicators on radicalization” contained in a series of guidelines of the DAP (Dipartimento Amministrazione Penitenziaria). According to official reports, in 2017 506 individuals were flagged for radicalization in Italian jails. In 2018 they were 478, and among them:

- 233 in the 1st level – HIGH (Individuals who have committed offences related to international terrorism and those who are particularly involved in proselytism or recruitment activities and are deeply radicalized);
- 103 in the 2nd – MEDIUM (Detainees who showed signs of sympathizing with *jihād*ist ideology while in prison and who may have been involved in proselytism and recruitment activities);
- 142 in the 3rd level – LOW (Detainees who require a deeper evaluation to determine whether they are to be placed in the first or second level, or to be removed from the third).

These 478 individuals mainly hail from Tunisia (27.7%), Morocco (26.07%), Egypt (5.91%) and Algeria (4.68%), and most reportedly had “a medium-low level of education”<sup>7</sup>.

Thirdly, deportations/expulsions system was enacted: finally, in the past years, expulsions – notably administrative deportations – for national security reasons have played a growing role in the Italian counter-terrorism strategy. Legally speaking, this remedy is an administrative sanction regulated by the “Testo Unico sull’immigrazione” and grounded on reasons of national security and public order (art. 13 TU Immigrazione). This measure is directed to foreign individuals present on Italian territory as well as to foreign inmates after their release. Once the person is deported, he/she is the recipient of a prohibition from re-entering the country for a period of at least 5 years and this measure is effective in the entire Schengen Area. In 2018 a total of 79 individuals had been deported for national security reasons, after they were released from prison. After the attacks of London 2005, this remedy has been flanked by another kind of expulsion, that is a security measure for terrorism’s prevention (art. 312 Italian Penal code)<sup>8</sup>. When the foreigner is sentenced for terrorism, and is found to be socially dangerous, the criminal court is required to apply the security measure of deportation, which will be enforced at the end of the term of imprisonment if the foreigner is still considered dangerous. However, administrative deportations are prevalent, and they can be considered as the “cornerstone of Italy’s counterterrorism strategy”<sup>9</sup>.

<sup>7</sup> F. Marone, M. Olimpio, *Jihadist Radicalization in Italian Prisons: a Primer*, cit., p. 8.

<sup>8</sup> D. Milani, A. Negri, *Tra libertà di religione e istanze di sicurezza: la prevenzione della radicalizzazione jihādista in fase di esecuzione della pena*, in *Stato, Chiese e pluralismo confessionale*, Rivista telematica (www.statoeChiese.it), n. 23 del 2018, p. 16. See also [www.questionegiustizia.it/speciale/articolo/il-terrorismo-e-le-politiche-migratorie-sulle-espulsioni-dello-straniero-sospettato-di-terrorismo\\_8.php](http://www.questionegiustizia.it/speciale/articolo/il-terrorismo-e-le-politiche-migratorie-sulle-espulsioni-dello-straniero-sospettato-di-terrorismo_8.php).

<sup>9</sup> *Ivi*.

### 3. The Italian Constitution and the challenge of re-education and rehabilitation of inmates

As noted, Italy has not any specific legislation concerning (de)radicalisation and this situation led to a repression-oriented response rather than a strategy focusing on prevention and education<sup>10</sup>. When it comes to prison system, only the repressive policy has been enforced so far, although the Constitutional law dictates different principles on criminal punishments: article 27 of the Italian Constitution affirms that punishments cannot be inhuman and shall aim at re-educating the convicted<sup>11</sup>; art. 19 declares that the freedom of religion must be guaranteed to anyone also when convicted.

If radicalization depends on a deviant interpretation of the religious experience – religion should be an instrument of re-education, dictating, under the principle of freedom of religion, the main principles and rules to contrast the process of radicalization in prison. Such an approach should be grounded on simple guiding principles: on one side, the balance between a secular order of society and the pluralistic protection of freedom of religion, adopting specific remedies that prevent deprivation, religious exclusion, alienation, and polarization; on the other side, the importance of interreligious and intercultural dialogue, which should be a tool to contrast *jihādism*, narrating a diverse interpretation on *jihād* and religious duties of good Muslims.

Yet, the Italian legal system doesn't seem to be ready to embark on this path, especially considering the actual legal condition of the “*umma al-islamiyyah*” in the country<sup>12</sup>.

First of all, religious assistance in prison is not adequately guaranteed to Muslim inmates. This assistance is essential in combating violent extremism<sup>13</sup> but needs the presence of respective religious representatives. Religious assistance is among those matters that should be regulated under the art. 8 of the Italian Constitution, which recognises a system in which religious communities may sign a formal agreement of cooperation (called “*intesa*”) in order to regulate some matters of common interest. The Islamic

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<sup>10</sup> See V. Federico, G. Spanò, *Deradicalisation and Integration: Legal and Policy Framework*, cit., p. 7 and more specifically p. 16-17, where it reads: «The national framework does not devote any specific legislation to (de)radicalisation. Instead, it consists of a plethora of provisions enacted following escalations in extremism. In several cases, the legislation has been drafted in connection with precise emotional and alarmist waves, on the one hand entailing an emergency structure and, on the other, a quite clear repressive pattern. Hence, the current set of laws mainly focuses on a counterterrorism agenda, with some insights dedicated to foreign fighters and the actions of so-called “lone actors”».

<sup>11</sup> [www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](http://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf).

<sup>12</sup> G. Anello, *The Umma in Italy: Eurocentric Pluralism, Local Legislation, Courts' Decisions. How to Make the Right to Worship Real*, in *Journal of Muslims in Europe*, Brill 9(2), June 2020. For a quite opposite perspective of the possibility to integrate the Islamic religion into “Italy's Democracy”, see F. Alicino, *The Legal Treatment of Muslims in Italy in the Age of Fear and Insecurity*, in *Journal of Law and Religion* 37: 3, 2022, pp. 478–500.

<sup>13</sup> See the document *Radicalization in Prison: a Pastoral view*, organized by the Permanent Mission of the Holy See nearby the Council of Europe. See, I. De Francesco, *Musulmani in carcere. Un'esperienza educativa in dialogo con la cultura arabo-islamica*, in *Archivio Teologico Torinese*, anno XXIV, 1, 2018, p. 166, footnote 18.

community tried to conclude such a pact, in order to regulate some profiles of the public lives of the faithful. However, series of problems prevented the Islamic denomination from signing the Intesa. The most relevant obstacle was the difficulty in determining a single organisation that represents all the Muslim communities living in the country.

Lacking the supporting protocol of the “intesa,” the topic of religious assistance in jail is regulated by ordinary law. As a result, the regulation is restrictive and cumbersome: briefly speaking, detainees can ask the Director of the penitentiary to have a place to worship and to have the assistance of an Imam. The Director has to evaluate the request and, if he agrees, let the imam to take part in the worship, choosing him from a list of religious guides identified by the Ministry of Interior.

Otherwise, entry can be allowed according to the art. 17 of the *Ordinamento Penitenziario*, regarding those persons who are able to guarantee and improve the development of relations between the inmates and the outside community, under the control of the Director<sup>14</sup>.

All in all, even though some new initiatives are trying to support more the large Muslim population in Italian prisons<sup>15</sup>, the presence of religious guidance and assistance in prisons is far from being adequate to the high number of Muslim inmates.

#### 4. *De-facto* initiatives of religious re-education in the Italian prison system: a review of effective actions

In spite of the lack of a general framework for religious assistance in prison, some scattered initiatives tried to provide religious re-education in prisons, recurring to Islamic culture to combat extremism and radicalization. This is the case of the “Diritti, doveri, solidarietà” project driven at the Dozza Prison of Bologna from 2014 to 2016. This project organized 58 meetings involving about 180 detainees coming from the MENA region and other Muslim countries and focused on some aspects of the religious culture to promote a religious re-education according to the Islamic values and practices<sup>16</sup>.

For example, the first action was promoting prayer and fasting in order to discipline life of inmates inside the walls of the prison, but avoiding self-isolation and some zealous practices that can foster radicalism of the detainees. In this action, religious assistance and the cooperation with

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<sup>14</sup> More exactly, this article, comma 2, reads: «Sono ammessi a frequentare gli istituti penitenziari con l'autorizzazione e secondo le direttive del magistrato di sorveglianza, su parere favorevole del direttore, tutti coloro che avendo concreto interesse per l'opera di risocializzazione dei detenuti dimostrino di potere utilmente promuovere lo sviluppo dei contatti tra la comunità carceraria e la società libera», see A. Cuciniello, *L'Islam nelle carceri italiane*, Paper, Fondazione ISMU, October 2016, p. 5.

<sup>15</sup> See the new agreement of cooperation of the 5 of November 2015 (renewed in 2020) of the Dipartimento dell'Amministrazione Penitenziaria and UCOII (Unione delle Comunità Islamiche d'Italia) aiming at supporting Muslim detainees facilitating the entrance of “ministri di culto” and cultural mediators in Italian prisons [ucoii.org/2020/06/05/carceri-lucoii-sigla-il-rinnovo-del-protocollo-con-il-dap-del-ministero-della-giustizia/](https://ucoii.org/2020/06/05/carceri-lucoii-sigla-il-rinnovo-del-protocollo-con-il-dap-del-ministero-della-giustizia/). See V. Fronzoni, *L'islam nel circuito penitenziario e la prevenzione della radicalizzazione violenta e del proselitismo. Profili comparatistici*, in *Diritto e religioni*, XXII, 2-2016, luglio-dicembre, p. 290 ff.

<sup>16</sup> See I. De Francesco, cit., p. 166.

mediators, volunteers, and civic actors are fundamental: a religious style of life can contribute to give the detainees stability and trust in the future, but, at the same time, it is necessary to prevent the inmates from adopting the “Salafi way of life”<sup>17</sup>. Sometimes, in fact, detention and prayer can support the formation of identity ruptures or the creation of fractures along identarian lines within European societies, which create the fertile ground for the success of the *jihādist* ideology. Indeed, *jihādist* propaganda’s goal is to disseminate a Manichean vision of the world, as if it was divided between “the good”, who are on Muslims’ side, and “the bad”, who are against Muslims and oppress them<sup>18</sup>.

Another action was to give a psychological help to re-interpret the “state of sin” that usually follows the arrest of the guilty. This effect can be driven by the traditional notion of “*al-maktūb*”, the destiny, according to which the responsibility of the guilty will be decreed by God on the last day. On one side, this action wants to promote a positive aspect that is to avoid the state of despair that can arise once in jail, helping the inmate to tolerate patiently the punishment when this punishment corresponds to the will of God. On the other side, it wants to forbid the negative aspect of the punishment in jail, which is to make the inmates apathic and indifferent, until to the point to lose completely the sense of responsibility toward other individuals and society.

Another action was to frame religious duties and values within the legal framework of constitutional rights and citizenship, interpreting the opposition between the secular and religious law under a new light and a more concerned knowledge of the legal history of Islamic governments (*qanun vs. sharia*)<sup>19</sup>. Radicalization is a sectarian process that entails separation between *jihādists* and the society, including their families, fellows, countrymen. In jail, inmates may assume a critical attitude against the western democratic system and this behaviour is sometimes considered as an indication of radicalization. For this reason, it is always necessary to react to this process, contrasting the self-isolation, remarking that there is no contradiction between Islam and democracy, demonstrating the religious freedom is guaranteed and that other constitutional rights support the relation between Muslims and society.

Another action was to prepare the environment that will receive inmates after release. For Islamist detainees, it should be provided a religious support that does not tolerate the spread of extremist theories and can help and advise them in religious matters. Contacts with the receiving institution should be established as early as during detention. The imam working in the prison can facilitate this process or play an intermediary role. Moreover, if the detainee's radical views have not changed during detention,

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<sup>17</sup> Some interesting insights about the moment of the individual assignment in cell are in F. Delvecchio, *Il detenuto a rischio radicalizzazione e i rimedi della prevenzione terziaria: triage iniziale, scelta allocativa e ruolo degli operatori penitenziari*, in *Diritto penale contemporaneo*, 6/2017, 193 ff.

<sup>18</sup> M. Demichelis, G. Mezzetti, *The dynamics of Islamic radicalization in Europe and their prevention: a humanistic approach*, in A. Mostafa, M. Younes (eds.), *L’Islam au pluriel. Foi, pensée et société*, Paris, 2018, p. 9.

<sup>19</sup> G. Anello, *Plural Sharī‘ah’. A Liberal Interpretation of the Sharī‘ah Constitutional Clause of the 2014 Egyptian Constitution*, in *Arab Law Quarterly*, 31:1, 2017, pp. 74–88.

this information has to be communicated to the receiving institution and alerted of the potential danger those represent. This can be done by the local police services<sup>20</sup>.

## 5. Inspiring de-radicalization today: the “Self-Critical Jihadism” of Jawdat Sa’id and the pluralistic society

An interaction between European and Muslim culture represents a hope for the future: a “virtuous” circle in Europe, between Islamic pluralist potentials and European human rights and values, based on institutional experiences (educational and re-educational ones) could generate a series of positive “return effects” also in the Muslim countries, that sometimes are involved in the same conflicts and processes. In this respect, a dialectical, intercultural and non-assimilationist training and education of migrants, refugees, even detainees could create a generation of European Muslims capable of interpreting their own religion, traditions, and values in the light of a political and legal context inspired to democracy, pluralism and universalism.

Such a virtual circle between western values and Islam is not a novelty. A mention should be made to the theory of the Syrian scholar Jawdat Sa’id<sup>21</sup>, who directly reverses the military notion of *jihād* to base a new theory of nonviolence in Islam.

The starting point of Sa’id is the statement that even though the military meaning of the *jihād* was historically dominant in the Islamic international law, the Holy Qur’ān explicitly forbids constriction in religion (“*la ikrah fi ad-dyn*”, Q. 2:256), forbids the initiation of war (“Fight in the cause of Allah against those who wage war against you, but do not exceed the limits. Allah does not like transgressors” Q. 2:190) and permits fighting only against actual aggressors (Q. 60:7–8; Q. 4:90).

Accordingly, premodern Muslim jurists permitted wars to extend Muslim rule over non-Muslim realms but dictated strict limits to *jihād* too:

- a. jurists gave a special status (*dhimma*) to Christians and Jews, described as “People of the Book”, regarded as communities to be protected by the Muslim ruler. They could either embrace Islam or at least submit themselves to Islamic rule and pay a special tax (*jizyah*). If both options were rejected, dhimmis are to be fought, unless there were treaties between such communities and Muslim authorities. Over time, other religious groups, including Zoroastrians, Hindus, and Buddhists, also came to be considered “protected communities” and were given rights similar to those of Christians and Jews.

- b. The military *jihād* had to be proclaimed only by the legitimate leader of the

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<sup>20</sup> *Radicalizzazione violenta. Riconoscimento del fenomeno da parte di gruppi professionali coinvolti e risposte a tale fenomeno. Manuale con il supporto finanziario del programma di prevenzione della radicalizzazione violenta e di risposta alla stessa Commissione Europea – Direzione Generale della Giustizia, Libertà e sicurezza, giugno 2009, [www.giustizia.it/giustizia/it/mg\\_1\\_12\\_1.wp;jsessionid=E88D0C5772DCF0146F845303FDFBA734.aipAL03?facetNode\\_1=4\\_95&facetNode\\_3=0\\_0&facetNode\\_2=3\\_1&previousPage=mg\\_1\\_12&contentId=SPS1143166](http://www.giustizia.it/giustizia/it/mg_1_12_1.wp;jsessionid=E88D0C5772DCF0146F845303FDFBA734.aipAL03?facetNode_1=4_95&facetNode_3=0_0&facetNode_2=3_1&previousPage=mg_1_12&contentId=SPS1143166).*

<sup>21</sup> Rü. Lohlker, *Jawdat Sa’id and the Islamic Theology and Practice of Peace*, in *Religions*, 13(2), 2022, 160 [doi.org/10.3390/rel13020160](https://doi.org/10.3390/rel13020160).

Muslim polity, usually the caliph.

- c. The jurists forbade attacks on civilians and destruction of property, citing statements by the Prophet Muhammad<sup>22</sup>.

When this historical interpretation comes to the contemporary interpretation of *jihād*, Sa'id worked to establish the base for nonviolence in Islam<sup>23</sup>: in his book "The conditions for violence in Islam"<sup>24</sup> he reinterpreted the Qur'anic provisions on the *jihād* in the light of the contemporary, fair and pluralistic society. Sa'id says:

To understand the true message of the Qur'an on the use of violence, we must differentiate between (1) a society founded on force, violence and coercion and (2) a society founded on the rule of law, justice and legitimacy. The former society of force is the society that prophets wanted to eradicate in order to establish the latter kind of society, based on peaceful persuasion and lack of coercion and marked by the protection it provides to its members<sup>25</sup>. Fighting or the use of force has, then, to be understood within the boundaries that define the distinctions between these two forms of governing.

The conditions in the Qur'an for the use of force in a society founded on force include the following:

No fighting or killing is permitted to impose one's religion at any level, whether against a state or against individuals. The use of threats or intimidation to make one change his or her religion is completely rejected in Islam, though it is not exclusive to Islam. All true prophets have preached the same message because monotheism, as I have explained above, is not only a theological matter, but a socio-political issue. Monotheism teaches its followers to refuse to be instruments in the hands of those who want to impose their religion with force. It also teaches them to refuse to accept a religion imposed on them forcefully. The human soul is sacred and may not be murdered for the sake of ideas. [...]

After discussing the regret that befell Adam's second son after killing his own brother, the Qur'an reads: "On that account, We ordained for the children of Israel that whoever kills a person, unless it be for murder or for spreading mischief in the land, it would be as if he slew the whole people: and if anyone saved a life, it would be as if he saved the life of the whole people". [...]

[Accordingly] violence can be used in a society of justice only to stop those who kill people and exile them for their ideas or ethnicities, for it is the obligation of such a society "regardless of its name or nationality" to install justice among people. If such aggression occurs, we should not be misled by the religious affiliation of the rebels; we should not be misled by names or labels of piety, religiosity, or infidelity.

In other words, according to this interpretation of Islam, military *jihād* is permitted only in a warlike society and under strict circumstances, mainly the existence of enemies actually combating the Muslims because of their

<sup>22</sup> A. Afsaruddin, *Jihād*, [www.britannica.com/topic/jihad](http://www.britannica.com/topic/jihad), last updated: Sep 8, 2022.

<sup>23</sup> [www.jawdatsaid.net/en/index.php/Main\\_Page](http://www.jawdatsaid.net/en/index.php/Main_Page).

<sup>24</sup> [www.jawdatsaid.net/en/index.php/The\\_Conditions\\_for\\_Violence\\_in\\_Islam](http://www.jawdatsaid.net/en/index.php/The_Conditions_for_Violence_in_Islam). See also J. Sa'id, *Vie islamiche alla non violenza*, Marzabotto, 2017, p. 17 ff.

<sup>25</sup> For a glimpse of Muhammad as a diplomat, see G. Anello, *Religiosity, Political Inclusion, and the Legacy of the Sahifah al-Medina (622 C.E.)*, in *Journal of Islamic social and political Thought*, vol. 1. N. 2, Spring-Summer, 2020 Urwat al-Wuthqa International Academic Research Institute, University of Qom, pp. 62-77, and Id., *The Concept of "Contractual Citizenship" in the Charter of Medina (622 C.E.): A Contemporary Interpretation*, in *Islamochristiana. Journal of Pontificio Istituto di Studi Arabi e Islamistica*, 46/2020, pp. 47-75.

convictions, trying to drive them away from the land because of their religion. By contrast, military *jihād* is completely unlawful in a pluralistic society, and cannot be fought against their peaceful members, even if they are not Muslims, even more if freedom of religion is recognized by Constitutional law and fully respected in jail.

The Qur'an is clear on this: "Allah does not forbid you from dealing kindly and fairly with those who have neither fought nor driven you out of your homes. Surely Allah loves those who are fair." (Q. 60:8)

According to Sa'id, *jihād* is not an instrument to make proselytists and its goal is not to spread Islam all over the world, but its aim is to forbid injustice against Muslim that are involved in a defensive war. In the same vein, in a peaceful society, *jihād* aims at protecting the dissidents because *jihād* aims at creating a society in which the freedom of thinking and religions are not oppressed by force. Surely, this final argument requires a deep understanding of Islam and is especially valuable for inmates in the context of prisons but it needs to be flanked by an effective protection of the freedom of religion and appreciation of the potentials of a sincere and skilled return to religion for detained Muslims.

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