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ROBBERY IN THE NAME OF JIHAD

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IN recent years, elements of Darul Islam and Jemaah Islamiyah have committed acts of robbery in Indonesia which they justified in the name of the idea of Al-Fai. Their interpretation - or rather misinterpretation of Al-Fai - is a classic example of the distortions of Islamic teachings that some jihadis resort to in the pursuit of what they regard as jihad.

Terrorist groups have long been associated with various criminal acts such as robbery, drug trafficking and counterfeiting. What sets Muslim terrorist groups apart from the rest is the ideological motivation that drives them, as manifested in their resort to Al-Fai – the confiscation or permissible transgression of enemy-owned property.

Kumpulan Militan Malaysia (KMM) broke into the Hong Leong Bank in Petaling Jaya in December 2000 and the Southern Bank in Jalan Gasing on 18 May a year later. Perpetrators of the Bali bombing reportedly committed robbery on the Elita Gold Shop in Serang, West Java. In 1999, a former member of Darul Islam robbed Bank Central Asia in Jakarta, justifying it as a legitimate target because the bank was an unIslamic institution.

Indeed, the extremists argue that all goods and assets belonging to non-Muslims can be considered as Al-Fai and therefore can be confiscated -- so long as they are to be used for the general interest of the Muslim public and not for personal gain. Banks, to them, can additionally be robbed because interest-based institutions are prohibited in Islam, regardless whether they are owned by Muslims or non-Muslims. Causing their destruction, either through bombing or robbery, is therefore acceptable -- as manifested in the bombing of the HSBC building in Istanbul. Those who work in such institutions are also legitimate targets as they are regarded as accomplices in evil deeds.

There is one serious problem with this warped thinking: There is no justification in Islamic jurisprudence (fiqh) for robbing corporations which are run by non-Muslims or on "unIslamic principles" such as riba (interest). On the contrary, classical Islam recognised non-Muslims in Muslim states as a protected people (zimmis) who not only had property and commercial rights but also the freedom to practise their religion provided that they paid a poll tax, in lieu of military services.

As such, KMM, Darul Islam and the Bali bombers had all violated the property rights of the minority-owned corporations as well as their right to practise their own way of life. Indeed, given that Hong Leong Bank and Southern Bank had Islamic banking counters, it could be argued that the jihadis might have gone far beyond the pale in robbing these banks.

What is Al-Fai

In fiqh, *Al-Fai* means booty taken from the enemy through means other than combat, or without formal war. Booty acquired through combat or formal war is called *Ghanimah*, or war booty. Examples of *Al-Fai* are assets that a host country confiscates from its enemies, or ships with economic goods belonging to a country at war seized in international waters.

Al-Fai originally referred to booty taken from the enemy. It was however usually taken from non-Muslims considered harbi (enemy at war). It was first mentioned in the Holy Qur'an, in Chapter 59, verses 6-9. Al-Fai is considered as part of the state's treasury and is to be used for public interest.

However, non-Muslims living in a Muslim country as citizens cannot be considered as harbi. In traditional fiqh, they are usually referred to as zimmis or people who are under the protection of the Muslim state. As citizens, the safety of their lives and properties are guaranteed by the state.

The same rule applies to non-Muslims who enter a Muslim country with proper permits such as visas and work permits. Even a citizen of a hostile country who enters a Muslim state with proper documents and permits is not to be harmed. Such people are usually termed musta'man or mu`ahid. It is obligatory on all Muslims in that country to honour the security and protection guaranteed to the non-Muslims, whether they are citizens or non-citizens, as stated in the Qur'an, 9:6.

Rights of Zimmis

Islam provides the zimmis with the freedom to practise their own laws and religious beliefs once they have pledged allegiance to the country and have agreed to serve in the military in defence of the country or, alternatively, pay a poll tax. This freedom extends to all their affairs such as civil, penal and other matters. They are allowed to solemnise marriages according to their own customs and religion. They are also permitted to do what Muslims are not allowed to, such as the consumption and sale of alcohol and pork. A small minority of Islamic scholars also view that contracts entailing riba or interest are permissible if they involve non-Muslims only.

In the case of formal war between a Muslim and non-Muslim country, Islam has rules in dealing with citizens of the hostile non-Muslim country (harbi). Messengers and officials who enter the Muslim country officially are protected. So are the businessmen who have legal business with citizens of the Muslim country. As long as any citizen of the hostile country has been granted protection by any Muslim, it is prohibited to transgress his life and property.

If Islam prohibits extra-judicial treatment of the harbis, how can it allow such treatment on the zimmis? Committing robbery against a zimmi because the victim is a non-Muslim clearly contradicts the teachings of Prophet Muhammad who has said: "He who hurts a zimmi hurts me, and he who hurts me annoys Allah."

Al-Fai is part of the law of war in Islam. Islamic scholars have ruled that laws of war can only be administered and executed by the *Ulil Amri*, or persons of appropriate authority.No

individual or groups are allowed to declare and wage war or *jihad* in the name of Islam or the community. As war will always affect the public at large, the declaration of war requires a proper mandate. The best people to hold such a mandate are those who are appointed by the government. A serious matter such as the waging of war, if left to the public domain for Muslim groups to decide, will only create chaos and injustice -- which is against the principle of any religion.

Only in a situation where the government has collapsed are Muslims allowed to organise themselves collectively to fight against any aggression and implement the law of war accordingly -- as had happened in Afghanistan during the Soviet invasion.

The *jihadi* might argue that since the Muslim nation is under attack, Muslims have a personal obligation (*fardu ain*) to take up arms in self-defence, even without sanction from a lawful ruler. This argument is false because the idea of defensive wars applies only to Muslim lands which have come under attack. Muslim-majority countries like Indonesia and Malaysia have not come under any direct attack and so do not fall under this category.

While Islamic scholars may differ on the permissibility of interest-based transactions by non-Muslims in a Muslim country, none of them have suggested that robbery or bombing such institutions is allowed in Islam as a means of eradicating evil.

In the two cases of robbery by the KMM and the Bali bombers in Malaysia and Indonesia, both groups are clearly not in a position to decide on matters pertaining to *Al-Fai*. Thus, their controversial robberies are criminal acts pure and simple that cannot be justified under *Al-Fai* or any other aspect of Islamic jurisprudence.

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