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THE AGE OF POLITICAL JIHADISM

A Study of HAYAT TAHRIR AL-SHAM

AARON Y. ZELIN



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Contents

List of Images iv
Abbreviations v
Acknowledgments vi

1 Introduction 1

2 The Development of Political Jihadism 7

3 Jawlani's Path to Political Jihadism 16

4 From Secrecy to Engagement with Locals 25

5 Hayat Tahrir al-Sham's Historical Baggage 52

6 External Operations, Guidance, and Inspiration 60

7 The Terrorism Designation Question 69

8 Conclusion 77

Appendix: Legal Criteria for a Terrorism Designation 80

Images

Uthman bin Affan Quranic school, October 2021 9

Khalid bin al-Walid Quranic school, October 2021 9

Abd al-Rahim Atun lecturing in Idlib, September 2021 12

Jawlani discussing bread prices with Syrian Salvation Government 26

Jawlani distributing gifts on Eid al-Fitr, June 2018 30

Jawlani inaugurating expanded Aleppo–Bab al-Hawa Road with SSG prime minister 31

Confirmation voting for Prime Minister Keda, December 2021 35

Sawaid al-Khayr members promoting appearance rules for women 38

Banner from SSG's "Guardians of Virtue" campaign 39

Individual receiving press card from SSG, June 2021 41

ISIS and Jabhat al-Nusra members at Eid al-Adha, October 2013 53

Rocket launch against Alawites, Latakia governorate, August 2013 55

HTS member explaining "Bilad al-Sham," Jisr al-Shughour 63

Abbreviations

AQ	al-Qaeda
AQAP	al-Qaeda in the Arabian Peninsula
AQI	al-Qaeda in Iraq
AQIM	al-Qaeda in the Islamic Maghreb
CT	counterterrorism
E.O.	Executive Order
FTO	Foreign Terrorist Organization
HASI	Harakat Ahrar al-Sham al-Islamiyah
HD	Huras al-Din
HSM	Harakat al-Shabab al-Mujahedin
HTS	Hayat Tahrir al-Sham
IDP	internally displaced person
IS	Islamic State
ISI	Islamic State of Iraq
ISIS	Islamic State of Iraq and al-Sham
JFS	Jabhat Fatah al-Sham
JN	Jabhat al-Nusra
JNIM	Jamaat Nusrat al-Islam wal-Muslimin
KG	Khorasan Group
SNC	Syrian National Council
SSG	Syrian Salvation Government
TIP	Turkestan Islamic Party
TTP	Tehrik-e-Taliban Pakistan

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1

Introduction

Pause for a moment, and try to imagine Osama bin Laden taking a selfie with residents of Afghanistan. Or Abu Bakr al-Baghdadi serving a hot meal of *ful* (stewed fava beans) to locals at a restaurant in Iraq. This is not easy, given the low profile each figure kept. Yet in early August 2020, Abu Muhammad al-Jawlani, leader of the jihadist group Hayat Tahrir al-Sham (HTS), did both openly in Idlib and without worrying about operational security from potential drones overhead.[1] This was a long way even from Jawlani's own initial media release in late January 2012, when he did not show his face. The situation changed in late July 2016, when he announced that his group at the time, Jabhat al-Nusra (JN), was becoming Jabhat Fatah al-Sham (JFS), a group connected to no "outside entity." He thus outwardly broke ties with al-Qaeda (AQ).[2]

This paper seeks to analyze HTS's current status and provide a multifaceted look at the question of whether it should be removed from the Department of State's list of Foreign Terrorist Organizations (FTOs), as some have suggested. It will also examine how HTS's transition in recent years fits within the broader trajectory of the jihadist movement. The paper will explore the evolution of Jawlani's public appearances and his evolving rhetorical focus, highlighting how HTS's actions suggest the shift is more than mere talk. From there, it will explore the group's evolution from a traditional terrorist group to an entity more akin to other authoritarian leaderships in the region. It will also highlight the problematic views the group continues to hold, despite no longer identifying or associating with the Islamic State of Iraq (ISI) or AQ. To conclude, it will return to the question of whether HTS should remain on or be removed from the terrorism list.

While many still view HTS through the lens of JN, the group has actually operated as HTS longer than it did as JN—that is, not part of AQ and no longer interested in global jihad. Therefore, it makes sense to consider its actions since 2017 as more representative of its actual views and current operating status. This statement should not be interpreted as an endorsement of the group or a minimization of its past transgressions. However, the challenge that HTS presents now is different and more complex from the one it presented when it was part of the ISI or AQ.

The fact that Jawlani can freely move about Idlib to meet with various actors and residents is evidence of a new stage in the jihadist movement's progress toward its goal of sustainable governance, and in many ways signals de facto acceptance by certain international actors. In spring of 2021, the former U.S. Special Representative for Syria Engagement, Ambassador James Jeffrey, admitted that Washington had stopped directly targeting Jawlani in August 2018.[3] This remains U.S. policy today. HTS now poses the same type of policy dilemma that has vexed Western governments vis-à-vis other violent Islamist groups in power, such as Hezbollah, Hamas, and the Taliban. Yet unlike Hezbollah and Hamas (Iran), but like the Taliban with Pakistan and Qatar, HTS has a foreign backer (Turkey) that is a U.S. ally, further complicating the policy conundrum.

In recent years, HTS broke ties with AQ and backed a civilian-led Syrian Salvation Government (SSG) in northern Idlib and western Aleppo. Consequently, some researchers who have spent time in HTS territory and have met Jawlani suggest that, through engagement and assuming continued changes in the group's behavior, HTS should be considered for removal from the U.S. list of designated terrorists.[4] They argue that this approach could be a model for dealing with other jihadist groups around the world and could help end the seemingly endless "war on terror." By contrast, some Syrian researchers—as well as many local activists in HTS-controlled territories—have rejected these calls, noting that "the experiences of local victims in Syria should be of some account in the definition of political terror" and not purely framed "in relation to Western security needs" abroad.[5]

As for HTS itself, Jawlani has stated that he primarily wants two things from the United States and the West: "There is no need for you to classify people

as terrorists and announce rewards for killing them…What we might have in common would be putting an end to the humanitarian crisis and suffering that is going on in the region, and putting an end to the masses of refugees that flee to Turkey or to Europe."[6] Further, according to Taqi al-Din Omar, HTS's head of public relations, Washington's decision to remove the Uyghur-led Turkestan Islamic Party (TIP)[7]—an HTS ally in Idlib—from the terrorism list will provide an opportunity for the United States to also reconsider its designation of HTS.[8] Yet the decision to delist TIP may have had more to do with power competition maneuvers vis-à-vis China than with Syria.

Based on the evidence presented in this paper, HTS still warrants its designation as a terrorist group, although the case is less straightforward now than it was before. Initially, HTS was listed as an alias within the JN designation.[9] In early May 2014,[10] the State Department separated its December 2012 listing of JN as an alias of al-Qaeda in Iraq.[11] In other words, since May 2014, JN's designation as an FTO has been independent of any formal connection to another group. Thus, there is no need to update it now, since it does not mention anything related to al-Qaeda, even if the group was then still part of AQ. Thus, HTS's separateness from AQ averts any problems due to the idiosyncrasies of the May 2014 JN designation update.

HTS remains problematic because it continues to espouse extremist beliefs that glamorize terrorism abroad and it shoots rockets into civilian areas controlled by the Assad regime, even if it has stopped conducting suicide attacks. Moreover, the territory that HTS controls is one where other designated groups affiliated with HTS operate, such as Jamaat Ansar al-Islam, Katibat Imam al-Bukhari, and Katibat al-Tawhid wal Jihad, as well as other nondesignated foreign fighter groups.[12] HTS also shot at U.S. Special Forces when they conducted their most recent operation, in early 2022, to capture and kill Abu Ibrahim al-Hashimi al-Quraishi, the leader of the Islamic State—a group HTS also views as an enemy.

Therefore, the most prudent course of action for the United States is to maintain the status quo and monitor the evolution of HTS to determine whether it falls below the legal threshold for being considered a terrorist organization. By law, the State Department is required to review FTO designations at least every five years.[13] This process could provide HTS an

avenue to be removed from the list at some future point if it makes certain changes, which are discussed in the conclusion of the paper. In the review, the United States could present its findings on the group's ongoing terrorist activities or ties to other terrorist groups. Yet even if HTS is no longer legally considered a terrorist group, it still could be sanctioned under other authorities related to human rights abuses in the Syrian war, because of authoritarian tendencies and human rights violations.

This paper does not specifically address how HTS has survived in recent years; rather, it is limited to discussing the group's current status and designation. These issues would be irrelevant, however, if Turkey were not sending troops into Idlib and creating a frontline barrier to the Assad regime and Russia, as well as using its drone force to deter further regime and Russian action against the territories in which HTS operates. In August 2018, Turkey designated HTS as a terrorist group,[14] illustrating the country's complicated relationship with the group even as Turkey has become its de facto protector.

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2

The Development of Political Jihadism

Although the Syrian regime, led by President Bashar al-Assad, espouses the goal of retaking all territory controlled by Hayat Tahrir al-Sham, the group has survived and controlled territory without stirring up the same level of international anxiety as when Harakat al-Shabab al-Mujahedin (HSM) seized parts of southern Somalia, al-Qaeda in the Arabian Peninsula (AQAP) took over parts of southern Yemen, al-Qaeda in the Islamic Maghreb (AQIM) took parts of northern Mali, or the Islamic State took parts of western Iraq, north-central Libya, and eastern Syria. It is important to understand why this is so, and an analysis reopens debates about the difference between jihadist "strategists" and "doctrinaires." As the Norwegian scholar Brynjar Lia noted, the debate is over "the general dilemma of how to strike a balance between ideological purity and political utility."[1] HTS's maneuvering over the past few years could be the strongest and most successful jihadist case seen thus far for a more pragmatic approach to day-to-day politics, auguring what could be a trend of political jihadism over a more theologically forward jihadist-Salafism. It should not be surprising that the Syrian war birthed another variant within the broader jihadist camp. As the British scholar Shiraz Maher has articulated in his book *Salafi-Jihadism: The History of an Idea*, "All the major ideational shifts [within the jihadist movement] have come in response to war."[2]

In some respects, HTS and Jawlani are following the path forged by their fellow Syrian jihadist, Abu Musab al-Suri, more than fifteen years ago in his 1,600-page treatise, *The Global Islamic Resistance Call*. This text discusses al-Suri's objections to Salafism *as professed by many jihadists* and calls it a

self-defeating theology because of its excessive emphasis on doctrinal purity and failure to unite ranks in the face of the war on Muslims by the so-called Mongols of the age (i.e., Americans and "Zionists"). "In its definitive form," the text explains, "it constitutes a door of division, factionalism, and jurisprudential partisanship that is by extension an ideological movement in nature, as well as the cause of internal war inside the ranks of the Muslims and in the midst of the resistance."[3] While there is no public proof that HTS is taking guidance from al-Suri's past work,[4] Jawlani alluded to some of these points in his February 2021 *Frontline* interview with Martin Smith, during which he stated that "to limit the description of the HTS to only being a Salafist or jihadist [group], I believe, needs a long discussion. And I don't want to comment on that now, because it would take a lot of research and study."[5] Yet in an HTS video released in February 2022 that showed the group's leadership honoring the top students in its military battalion leadership course, HTS's head military official, Abu al-Hassan al-Hamawi, said, "The battle, my brothers, is an advanced line of defense of the Sunnis…there is no solution except through jihad, and fighting in the way of God."[6] This illustrates the importance of listening to what Jawlani and HTS are saying to their local audience and not merely following their public pronouncements aimed at the West.

Through field research conducted in Idlib in recent years, Jerome Drevon and Patrick Haenni found that, unlike AQ or the Islamic State—which have tried to implement only their Salafi *aqidah* (creed) in the territories they control—at mosques and within the sharia faculty at Idlib University, "the Salafi religious *aqidah* is taught, but [other] schools of jurisprudence are also emphasized, with a specific role of the Shafi'i *madhhab* (school of law), as it is the most common in Idlib."[7] Interestingly, Ansar al-Islam, a jihadist group aligned with HTS, supports an Imam Shafi'i Institute in Idlib.[8] Plus, on April 19, 2022, Idlib University hosted a Zoom lecture with the Jordanian jihadist ideologue Iyad Qunaibi.[9] Nonetheless, there is a risk in finding too deep a dichotomy between Salafi and traditional *madhabs*. Moreover, at the primary education level, the HTS-run Dar al-Wahi al-Sharif Quranic school is free—and also provides free school uniforms—constituting a favorable comparison with public primary school, which actually costs money, and giving the group an



Schoolchildren at the Uthman bin Affan Quranic school, October 2021.



Schoolchildren at the Khalid bin al-Walid Quranic school, October 2021.

advantage in shaping how children grow up to view the world based on HTS's interpretations of Islam.[10]

Jawlani's comment related to Salafists and jihadists echoes an earlier statement by leading jihadist ideologue Abu Qatada al-Filistini in October 2018, after rival ideologue Abu Muhammad al-Maqdisi criticized him for

mourning the murder of Saudi journalist Jamal Khashoggi by jihadists as connected to the Muslim Brotherhood and therefore an ideological enemy: "I am not a jihadi, or a salafi, and those who wish to wrap me in their ideological robe in spite of me will not succeed."[11] In essence, the context of Abu Qatada's response was a call for a more inclusive movement, in contrast to what is perceived as a more rigid movement inspired by the ideas of Abu Muhammad al-Maqdisi.

Thus, it is not surprising that following HTS's destruction of al-Qaeda's revamped Syrian branch, Huras al-Din, in June 2020,[12] HTS disavowed Maqdisi: "We disavow him and his *manhaj* [methodology], he is not of us and we are not of him and we are not on his way…this imposes upon us the obligation of advising the abandonment of his books and fatwas, and not adopting him as a reference for the fatwa, let alone his being a theorist on a case of jihad. And it has become clear to all the essence of the way he pursues, and the fact he is closest to the way of the *khawarij*,[13] their *manhaj*, interpretations, and pronouncements."[14]

How the Jihadist Movement Got to This Point

Since the initial crystallization of contemporary jihadist ideology and its subsequent mobilization in various groups over time, the movement has essentially sought to redress the elimination of the Caliphate by the Turkish Republic in 1924 by reestablishing it and implementing Islamic law (according to its interpretations). In more general rhetorical terms, jihadist groups tend to talk about the supposed humiliation of the Muslim *umma* (nation), the supremacy the enemy has gained over the umma and its attempts to erase the *umma*'s Islamic identity, and the need to revive the *umma*'s past glory and might through jihad. Even if HTS has downplayed the idea of establishing an Islamic state and the rhetoric about reviving the *umma*'s glory in its messaging to the West, these themes can still easily be found in the group's internally directed propaganda. In one video released by the group's Amjad Media in August 2021, Jawlani addressed a group of graduates from the special forces course and stated that when HTS conquers Damascus,

the group would create "the rule of Islam." This underscores the hope of an Islamic state as the group's ultimate goal.[15] In the video released in February 2022, Jawlani spoke of the humiliation of the *umma* in the present era, the attempts to erase its identity, and the hope for a revival of its past glory through the mujahedin.[16] Moreover, one of HTS's senior ideologues, Yahya bin Tahir al-Farghali (Abu al-Fatah al-Farghali), produced a video series from 2019–20 titled *The Road to the Caliphate: History of the Jihadist Movements from the Muslim Brotherhood to the Shami Jihad*.[17] The formation of HTS is portrayed as a new stage and chapter in the fifth generation of those working to revive the caliphate,[18] suggesting that the revival of the caliphate is a project to which HTS subscribes even if it does not purport to be the group that represents the Caliphate. This is in contrast to the Islamic State's own assumption of this authority.

Since the 1960s and 1970s, the jihadist movement has advanced in its capabilities and capacities. This has allowed it to pass through various stages that have built off one another over time. The stages have not necessarily been mutually exclusive once the next phase has begun. The stages can be divided as follows:

- Mid-1960s: clandestine terrorist groups focused on overthrowing local Arab regimes
- Mid-1980s: the beginning of the transnational foreign fighter phenomenon and insurgencies
- 1990s: international terrorism
- 2000s: hybridization between local and global terrorism
- 2010s: the growth of *dawa* (outreach) and governance projects

It is plausible that the 2020s will witness an emerging diplomatic element in the jihadist movement's repertoire. The Taliban's successful negotiation of the United States' exit from Afghanistan in August 2021 and the prior talks that occurred in Doha, Qatar, provide a potential example of new strategies that jihadist groups might employ to further their ultimate goals.[19] There are already signs that AQIM's branch in Mali, Jamaat Nusrat al-Islam wal-Muslimin (JNIM), is beginning to conduct high-level negotiations after

already being involved in communal-level talks.[20] HTS alluded to this possibility in a recent lecture given by one of its senior ideologues, Abdul Rahim Atun (Abu Abdullah al-Shami) in Idlib on September 15, 2021. Analyzing the similarities and differences between HTS and Hamas and the Taliban in one part of the lecture, he noted that both have "developed networks with foreign powers to achieve their goals."[21]

It is thus not surprising that, according to Ambassador Jeffrey, HTS has sought to let Washington know through back channels that "we want to be your friend. We're not terrorists. We're just fighting Assad…We're not a threat to you."[22] Yet the Biden administration has discontinued the Trump administration's policy of communicating with HTS through back channels. However, with the strengthening hand of HTS and other jihadist groups in different regional theaters, alongside a greater American and Western policy focus on great power competition and a public interested in moving beyond the 9/11-era wars, the potential for dialogue, negotiations, and diplomatic efforts is likely to increase in some policy corners.[23] In light of these developments, it is worth examining how HTS and Jawlani have changed over the past decade.



Abdul Rahim Atun lectures in Idlib, September 2021. His talk is titled "Jihad and Resistance in the Islamic World: The Taliban as a Model."

Notes

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3

Jawlani's Path to Political Jihadism

Although Abu Muhammad al-Jawlani originally led Jabhat al-Nusra—a predecessor group of Hayat Tahrir al-Sham—as a project of the Islamic State of Iraq and subsequently as al-Qaeda's official branch in Syria,[1] Jawlani has built his own alternative jihadist outlook. Part of this might be ascribed to the fact that Jawlani had a "better understanding of the Syrian environment when compared with IS" or AQ, as the Syrian dissident-intellectual Yassin al-Haj Saleh surmised in his 2017 memoir of the Syrian revolution.[2]

Unlike the typical modus operandi of jihadists at the time, Jawlani in 2012 began to build up JN in Syria as something more than a clandestine organization; the group also sought to work with other insurgents fighting against the Assad regime. By defending people from Assad, providing social services, and refraining from targeting ideological rivals in the early years of the war, JN successfully embedded itself within the local social fabric. The initial fruits of this success were seen when the Syrian opposition and rebels continued to back JN even after the United States designated the group as an FTO and an extension of ISI in December 2012.[3]

As a consequence of JN's popularity, and because Jawlani was ignoring then ISI leader Abu Bakr al-Baghdadi's requests to begin liquidating opposition activists and rebel factions deemed un-Islamic—meaning most, if not all, from ISI's perspective—Baghdadi announced the Islamic State of Iraq and al-Sham in April 2013 to show he was behind JN's successes and to end what he saw as Jawlani's insubordination.[4] Instead of caving in to Baghdadi's attempt to subsume JN under his authority, Jawlani pivoted and ostensibly "renewed" his *baya* (an oath of allegiance to a higher religious/

political authority) to AQ leader Ayman al-Zawahiri.[5] Through this move, Jawlani moved JN outside the ISIS orbit, as he hoped to obtain a ruling from Zawahiri that would rubber-stamp JN's independence from ISIS—a ruling Zawahiri granted. This dispute ultimately caused one of the biggest rifts in the jihadist movement as infighting emerged between the rebels and ISIS by the start of 2014, and AQ formally disavowed ISIS.[6] Already in 2013, before the infighting began, a number of more hardline local members of JN and foreign fighters had defected to ISIS.

For its part, JN continued to work with others within the anti-Assad-regime rebellion, especially Islamist and Salafi factions like Harakat Ahrar al-Sham al-Islamiyah (HASI), which had been JN's biggest enabler within the broader rebellion. The JN split with ISIS, too, gave it more gravitas among the rebels, despite JN's now open declaration of an AQ affiliation. Yet to secure its future—in part because the United States was helping the more nationalist factions in the anti-Assad camp to delegitimize JN and turn the tide toward nonextremist elements—in summer and fall of 2014, JN began to go after these forces to take greater control of the anti-Assad fight and eliminate internal problems. The most prominent cases were JN's elimination of the Syrian Revolutionaries Front in October 2014 and Harakat Hazm in March 2015.[7] This marked the beginning of a policy by JN and its successor groups to either dismantle or forcibly absorb enemies, competitors, or spoilers.

In late March 2015, JN teamed up with a number of other local Islamist and Salafi forces in a joint operations room called Jaish al-Fatah to take over Idlib province,[8] which has become the epicenter of the rebellion against the Assad regime. Since JN and these factions now controlled territory, calls arose for unity.[9] One idea behind Jaish al-Fatah was to create a unified military and political administration that would do away with factional differences. JN's status as AQ's official branch in Syria proved to be a larger problem, however,[10] and an obstacle to wider unification efforts, especially after Russia overtly entered the conflict in fall of 2015.[11] In late 2015 and throughout 2016, there was a growing sense that if the insurgency were to survive, more serious efforts at unification would have to be made.

In July 2016, JN decided to break publicly with AQ without having first consulted with Zawahiri about it.[12] Instead, Zawahiri's deputy in Syria,

Ahmad Hasan Abu al-Khayr, approved the measure in the context of further embedding JN within the local milieu, contingent upon Zawahiri later approving it.[13] Atun explained the thinking behind the move as a transitional stage in which Jabhat Fatah al-Sham (JFS) would retain secret ties with Zawahiri, paving the way for a larger merger with other factions that would constitute a full breaking of ties, but would also be acceptable to Zawahiri.[14] As part of this transitional stage, JN changed its name to Jabhat Fatah al-Sham.

However, when Zawahiri found out about this plan, he rejected it.[15] Even before Zawahiri had indicated his rejection of JFS, some AQ veterans within JN—most notably, the Jordanians Abu Julaybib and Abu Khadijah—had been unhappy about the lack of consultation with Zawahiri on the formation of JFS, and they disassociated themselves from the group.[16] If Atun's account is to be believed, some of the AQ veterans who were against the formation of JFS had influenced AQ leader Saif al-Adel's view of JFS, and in turn Saif al-Adel gave Zawahiri the wrong impression of JFS as a project that was intended to break ties with AQ. Further, according to Atun, subsequent communications occurred in which Zawahiri indicated his rejection of the idea of a secret allegiance on account of the experience with IS, and that any real resolution involving a breaking of ties would require a proper merger with other factions. It would seem that among the factions that would have to sign on to the merger for a consideration of endorsement by Zawahiri was the aforementioned JN/JFS ally HASI.

Thus, during the JFS period, it would seem that achieving a merger with HASI became a primary objective of Jawlani and the JFS leadership. HASI's mainstream leadership, however, ultimately shied away from merging with JFS, likely out of concern that the merger would effectively mean being subsumed under Jawlani's leadership and that it would jeopardize ties with Turkey. In December 2016, a breakaway faction from HASI called Jaish al-Ahrar and led by Hashem al-Sheikh was created,[17] which, alongside other groups, would form the backbone of what became Hayat Tahrir al-Sham in January 2017.[18] This counter-move helped sustain JFS's future. In a bid to show its alleged maturity and concession toward criticism, al-Sheikh became the first leader of HTS.[19] This decision was reversed in October

2017 back to Jawlani, since HTS dropped the pretense of having al-Sheikh as the effective leader of the group.[20]

In the view of both its proponents and critics, the creation of HTS marked the final breaking of ties with AQ. Any remaining AQ elements who had decided to remain with JFS for the sake of maintaining unity in the ranks broke off and refused to sign on to HTS. The most notable example was Sami al-Uraydi, who denounced what he saw as insubordination to Zawahiri.[21]

The jihadist ideologue Abu Muhammad al-Maqdisi was also critical of HTS's move away from AQ. He viewed their decision as diluting the group's original *manhaj* (methodology) as it pertained to living up to strict adherence to AQ and the jihadist movement's traditional views on tawhid (monotheism).[22] In the late fall of 2017, HTS arrested some of the AQ veterans who had complained about Jawlani's maneuvers.[23] After their eventual release, some of these figures became involved in the creation of a new AQ branch in Syria called Huras al-Din (HD), whose existence was first publicly announced in February 2018.[24] In October 2018, HD set up the Wa Harid al-Mouminin (And Incite the Believers) Operations Room in conjunction with two smaller jihadist groups, Jabhat Ansar al-Din (which had broken off from HTS) and Jamaat Ansar al-Islam (an Iraqi group that now primarily operates in northwest Syria).

However, since HTS was controlling the areas that HD operated in, HTS expected HD not to run afoul of HTS's authority and policies, in return for which HTS tolerated the group and perhaps even provided logistical support for some the frontline positions maintained by HD. According to Abu al-Laith al-Halabi, who described himself as an HTS fighter and has run one of the more well-known pro-HTS channels on Telegram, "HTS provides expenditures of food and ammunition for [HD] on a daily basis."[25] In this way, HTS initially attempted to shape HD's activities to prevent HD from going outside the bounds of what HTS was attempting to accomplish. As this author wrote in September 2019, "If [HD] were to grow significantly stronger, HTS may try to suppress it and arrest its leaders in order to preserve its own power base. In that sense, HD's local growth potential is somewhat limited."[26]

In many ways, this is what occurred. On June 12, 2020, HD, alongside its two partners in the Wa Harid al-Mouminin Operations Room, established a

new operations room called "Fa-thbutu" (So Be Steadfast) that also included the groups Tansiqiyat al-Jihad and Liwa al-Muqatilin al-Ansar.[27] The leaders of the latter two groups, Abu al-Abd Ashida and Abu al-Malik al-Talli, respectively, had falling-outs with HTS over the direction of the jihad, relations with Turkey, and corruption issues. Similarly, ahead of this announcement, Abu Salah al-Uzbeki, the leader of the Uzbek Katibat al-Tawhid wal-Jihad that was aligned with HTS, switched his allegiance from HTS to Jabhat Ansar al-Din, thereby adding further strength to this alternative jihadist bloc.

As a consequence of these shifting alliances and the bolstering of the HD-led alternative jihad, HTS arrested Uzbeki on June 17 and Talli on June 22, 2020. This led the new Fa-thbutu Operations Room to warn HTS that it would "bear the consequences in this world and the hereafter" if it did not release its leaders or submit to a religious court.[28] HTS retroactively claimed, in a circular by its Higher Follow-Up and Supervision Committee, that individuals needed authorization to either leave the group or join other groups.[29] HTS saw the formation of this new operations room and the defections as an unacceptable challenge to its authority. The same rationale of asserting its authority and control had prompted the group to crack down on nonjihadist rivals in 2017–19. These included HASI, which ultimately agreed to accept HTS authority in northwest Syria, and Harakat Nour al-Din al-Zinki, which broke off from HTS after initially joining the group and maintained its own fiefdom in the west Aleppo countryside that was then dismantled by HTS.

HTS's arrests of Uzbeki and Talli and the perceived lack of transparency behind them led to infighting between HTS and the Fa-thbutu Operations Room in the communities of Arab Said, al-Hamamah, al-Yaqubiyah, Jdaydah, Armanaz, Kuku, and Sheikh Bahar over the next few days until truces were brokered as HTS overpowered HD and its allies.[30] This led HTS on June 26, 2020, to proclaim a ban on establishing any new factions or new military operations rooms, and that the only military efforts that could be conducted would be via its own al-Fatah al-Mubin (The Clear Conquest) military operations room.[31] As a result, HTS shut down HD's military bases, and the Fa-thbutu operations room was effectively dissolved. Since then, there has been no evidence publicly that HTS has continued to provide HD any operational support. HD's only operations since then have been covert

attacks conducted elsewhere in Syria well outside of Idlib and its environs. Of the other factions in the Fa-thbutu operations room, only Jamaat Ansar al-Islam reached an understanding with HTS that has permitted it to continue conducting military operations on the front lines.

The takedown of AQ's de facto branch in Syria highlights the differences between HTS and the Taliban. The latter effectively ignores the issue of AQ in Afghanistan and attempts to deceive everyone about AQ's presence and/or its connections to the Taliban. In contrast, HTS has gone after AQ in Syria, even though its primary motives for doing so were asserting HTS's own authority rather than a desire to prove its counterterrorism bona fides to the West. Therefore, while some might try to draw similar conclusions about the two groups, their approaches to AQ are very different.

Since the crackdown on HD, HTS has also gone after other independent foreign fighters and their related groups that did not submit to its authority. Most notably, HTS dismantled the independent Junud al-Sham led by Muslim Shishani and Jundallah led by Abu Fatimah al-Turki in October 2021.[32] Muzamjir al-Sham, a Syrian Islamist critic of HTS, calls the group's current prison system "Idlib's Guantanamo" since at least 170 foreign fighters are allegedly imprisoned by the group.[33]

At the same time, there are other foreign fighters and designated foreign terrorist groups that have submitted to HTS's writ.[34] This shows that foreign fighters and foreign groups remain an issue for the United States, even if HTS has challenged other foreign fighters and foreign terrorist groups that are America's enemies.

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4

From Secrecy to Engagement with Locals

> "The liberated areas have begun, by the permission of God (Almighty and Exalted Is He), with a strategic plan for economic development in the liberated areas. It began in the first stage in the preservation of human resources, and thus were the universities established in the liberated areas, and the priority of the liberated areas in terms of interest in the schools and education is to preserve human resources because they are the foundational pillar upon which any economic growth arises."
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Reading the words above, one might think they were uttered by a nation's Finance Ministry official. In fact, these are Abu Muhammad al-Jawlani's opening remarks at an emergency session of the HTS Syrian Salvation Government's General Shura Council in November 2021, wherein he commented on the aftermath of Turkey's lira crisis and its effect on the price of bread in Idlib.

These words are a far cry from Jawlani's fiery speech when he announced Jabhat al-Nusra's creation in late January 2012 to "return God's authority to the Earth and take revenge for the violated chastity and bloodshed, and bring a smile to children and widows."[1] Yet while Jawlani now focuses on



Jawlani discusses the crisis associated with bread prices with the Syrian Salvation Government's General Shura Council.

a wider array of issues, when it comes to fighting, he still uses a tone that easily fits that of a leader of the Islamic State or al-Qaeda. In February 2020, for example, he said this to a group of elite HTS fighters:

> The enemies of God (Almighty and Exalted Is He) are striving against the Sunnis, in order to exterminate them, displace them, and wipe them out from this land. And the consequences of losing this battle in the land of al-Sham are very big, not only for the people of al-Sham, but also for all the Sunnis in all the region. Therefore, my brothers, you are not just defending 12 million displaced people and refugees, and a million martyrs, and blood, and land, and the women violated in the prisons of this regime. No. Rather, you are defending an *umma* in its entirety.[2]

Therefore, even if HTS has moved away from using *takfir* (pronouncements of apostasy) and focuses on local rather than global jihad,[3] the worldview of its leadership and members remains extreme. But unlike before, when HTS was more purist and blindingly loyal to minutiae in its ideology, today the group and Jawlani recognize limits to following the path of entities like AQ or IS. For Jawlani, the ideal of implementing sharia is a comprehensive

administrative project and not merely a matter of carrying out criminal *hudoud* penalties. As Jawlani stated in a video released in May 2020 addressing HTS fighters, "Some people limit the issue of implementing the rule of the sharia to just imposing some of the *hudoud* punishments, chopping off hands, stoning whomever, whipping someone who drinks alcohol, and so on. But this is a very basic part of the very big concept of implementing the rule of the sharia."[4]

Jawlani is clearly no longer just a leader of a terrorist group or insurgent faction; he is also the head of an inchoate polity. With that comes responsibility and a more multi-faceted approach beyond the martial realm. Of course, Jawlani should not be given credit for such a speech in of itself, especially since his group has developed a monopoly over Idlib's economy, and most people in the territory it controls are poor and barely able to survive.[5] But the interest in and rhetorical emphasis on these topics illustrate the more complex nature of Jawlani and HTS. Since he came onto the scene in Syria a decade ago, Jawlani went from secrecy, to engaging locals, to engaging the Arab region, to now attempting to engage Western audiences.

Jawlani's earliest public statement was audio only, and was manipulated to disguise his voice. This was the subject of a major critique by long-time London-based Syrian jihadist ideologue Abu Basir al-Tartusi, who had been involved in the jihad against the Hafiz al-Assad regime in the late 1970s and early 1980s. On January 24, 2012, in response to questions by several "brothers" on Tartusi's thoughts in reaction to Jawlani and JN's first video message on his Facebook page "al-Muardah al-Islamiyah lil-Nizam al-Suri" (Islamic Opposition to the Syrian Regime), Tartusi had reservations about the group.[6] One of Tartusi's strongest critiques was about the fact that the men in the video, and specifically Jawlani, were all masked, while Syrians had removed their fear of the Assad regime by defying the *taghut* (false idol and tyrant). Based on his lived experience, Tartusi implied that the regime might be using JN as a way to mislead and entrap people, recalling how it apparently used the likeness of Adnan Uqla—a Fighting Vanguard leader who fought against Hafiz al-Assad in the late 1970s and early 1980s—to capture dozens of people. Therefore, the obligation on those claiming to be mujahedin supporting the Syrian people should be to reassure them

about their true identity. Tartusi understood that for the mujahedin's safety some have to cover their faces, but those representing the group should show themselves and reveal their identity—something that would hopefully help the masses sympathize with the group's cause. However, Jawlani's modus operandi would remain intact until he appeared unmasked when announcing JN's disaffiliation with AQ and becoming JFS, before eventually becoming HTS.[7]

By the time the United States designated JN as a terrorist group, Tartusi's reservations about the group were irrelevant to actors on the ground. The Syrian National Council (SNC), which was then the face of the revolution, released a statement rejecting the U.S. designation. The SNC, which at the time had considerable influence in opposition politics, countered that the Assad regime's massacres were the true terrorism in Syria.[8] The Syrian Muslim Brotherhood's deputy leader also stated that the decision to designate Jabhat al-Nusra was "very wrong."[9] The chief of staff of the Free Syrian Army at the time, Brig. Gen. Salim Idris, added that Jabhat al-Nusra was not a terrorist organization, and depended on young, educated Syrians for its efforts.[10] More than a hundred different revolutionary Facebook pages issued a statement denouncing the American designation of Jabhat al-Nusra as a terrorist group. The statement called for naming the following Friday—the day on which Syrian revolutionaries would protest weekly—as "No to American intervention—we are all Jabhat al-Nusra."[11]

After garnering the support of locals in 2012, Jawlani's interview with *Frontline* in spring 2021 can be seen as an entree into influencing more Western publics. It is a natural extension of his public diplomacy to gain acceptance within the Arab sphere outside Syria with his appearances on Al Jazeera between 2013 and 2016. These interviews provided a larger platform and other forms of legitimacy to Jawlani's cause. In his first appearance in December 2013, one can see echoes of his vision even though he was still within the IS and AQ orbit: "This isn't just about sharia (Islamic law) courts, but also a sharia vision for the distribution of municipal services…for a functioning state that performs normal state functions effectively: delivering electricity, building hospitals, issuing marriage licenses, etc."[12]

Another milestone in Jawlani's attempts to ingratiate himself and his group with his local constituency came in December 2015, when he coopted the language of revolution in addition to jihad in messaging at a press conference with supportive journalists.[13] In August 2017, HTS sharia official Anas al-Khatab wrote a treatise legitimizing the use of the term "revolution," rebuffing Abu Muhammad al-Maqdisi, who had criticized group members for using such language.[14] The group has gone even further since then, attempting to frame itself as an intrinsic part of the revolution, even if the group had nothing to do with the original revolutionary protest movement in 2011. Jawlani demonstrated his awareness of the limitations of his group monopolizing the revolution when he said in January 2019 that "we are part of this revolution, but we are not the whole revolution."[15] The actions of the group against revolutionary elements indicate a poor record, even to this day. Thus, while Jawlani might state that "we are not the whole revolution," many revolutionary activists, especially those who have been imprisoned or killed by HTS and its predecessor groups, would argue this rings hollow.

This is partly why Jawlani has recently been appearing publicly with various actors in the areas that HTS controls to garner more support and sympathy and to show that his group is listening to what residents want or need. This public diplomacy campaign can be traced to Eid al-Fitr in June 2018, when Jawlani distributed gifts at a party for children of martyrs and visited the injured as a consequence of the war.[16] Interestingly, this period coincides with the time when the United States stopped actively targeting Jawlani in its drone campaign. In subsequent years, Jawlani would also publicly meet with military leaders and foot soldiers, foreign fighters from Saudi Arabia and Kurdistan, tribal elders, elites and notables, regular residents, and individuals in internally displaced person (IDP) camps. He also attended a competition for Qur'anic memorizers.

Many of the meetings that Jawlani attends are part of his and the group's effort to show that it is responsive to governance issues and concerns. In August 2020, for example, in a meeting with IDPs from Halfaya, Jawlani acknowledged that HTS is not a "big state" and has limited ability to help people, but it would direct its resources where it could. One way to do this, he said using a theme raised a few times, is self-sufficiency.[17] In May 2021,



Jawlani distributes gifts at an event for children of martyrs, Eid al-Fitr, June 2018.

while meeting a delegation of tribal sheikhs, Jawlani stated that "the current stage is one of preparation and institution building" that will pave the way for an eventual victory. "Every institution we build in the liberated areas represents a step toward Damascus…Our battle is on every level. It's not just a military battle, because construction is harder than war. There are many hardships."[18] Thus, it was not surprising to see Jawlani appear at the January 2022 inauguration of a widened road that connects Bab al-Hawa to Aleppo, explaining that these projects are building blocks to a better life for local residents. "Freedom comes from military strength…and dignity comes from economic and investment projects, through which the people and the citizens live a dignified life that befits Muslims."[19]

Limitations

There is no doubt that HTS and its civilian governing body, the Syrian Salvation Government, are implementing public works projects to improve the lives of people residing in their territories. However, there are limitations to what they can do to improve people's lives on account of the limited economic assets in HTS's territory (in contrast to the earlier years when JN had influence in



Jawlani inaugurates expanded Aleppo–Bab al-Hawa Road with SSG prime minister Ali Keda.

oil-rich Deir al-Zour province), but also because the value of the Syrian pound and the Turkish lira has dropped precipitously in recent years.[20] While some claim that the SSG "cannot be considered an offshoot of the management of HTS,"[21] others like Nisreen Al-Zaraee and Karam Shaar note that the SSG "is no more than a tool to provide the 'legal' and administrative frameworks for HTS's takeover of the region's economy and resources."[22]

The fact that Jawlani is increasingly appearing as part of the SSG's work—for example, in late January 2022 at an emergency session related to winter conditions at IDP camps to announce the "Your Warmth Is Our Duty" campaign[23]—underscores the fig leaf nature of the SSG, which was originally created to obscure the role of HTS as having ultimate control of everything. While HTS does not micromanage all levers of the SSG, the government would not be permitted to execute a decision that ran afoul of HTS.[24] It is not surprising, then, that following his speech introducing "Your Warmth Is Our Duty" at IDP camps in Sarmada and Deir Hassan, Jawlani stated that HTS would be leading the campaign alongside the SSG.[25]

Likewise, key figures such as Mazhar al-Ways and Anas Ayrut, the former a key HTS ideologue and the latter a member of the HTS-backed Supreme

Fatwa Council, are members of the SSG's Ministry of Justice's Supreme Judicial Committee and the SSG's Ministry of Endowments, Dawa, and Guidance, respectively.[26] There are also rumors that Jawlani's own brother, Hazim, has been a judge in Sarmada, the head of finances for the General Zakat Commission, and a leader in HTS's news agency Ibaa when it was active.[27] It is likely that there are many other lesser-known individuals within HTS that are also active within the SSG.

As a consequence of this dynamic, rather than providing economic freedom to local people attempting to make a living, HTS is increasingly monopolizing different sectors.[28] HTS and members of the group control the following entities in these sectors:

- Financial: General Monetary Agency for Cash Management and Consumer Protection and Sham Bank[29]
- Border: Crossing Management Body and General Administration of Crossings
- Energy: Watad Petroleum, Kaf Business Company, and al-Shahba
- Internet: Public Telecommunications Corporation of the SG and SYR Connect
- Media and Advertising: Creative Inception
- Telecommunication: Syria Phone

In addition, locals complain of HTS seizing territory under its own version of eminent domain to take property and gentrify areas for the benefit of their leaders.[30] In July 2021, for example, HTS and the SSG allegedly decided to demolish the bazaar in Darat Izza and turn it into a shopping center, sparking local protests.[31] Eventually, the bazaar was demolished and a mall was built on the site. HTS leaders are also involved in a number of construction projects. Because the civilian SSG is a component of HTS's statecraft, those in key positions are able to exploit that relationship at the expense of regular residents in areas controlled by HTS. "The majority of investment operations and projects owned by HTS leaders are carried out through civilian intermediaries close to the leaders, who act as fronts behind which the real investors hide."[32]

According to the International Crisis Group, this has led to "HTS's economic activity…creat[ing] a network of Syrians throughout the northwest dependent on the group and vested in its survival."[33] This is why even though in Jawlani's address about the economic situation in Idlib following the fall of the Turkish lira in November 2021, in which he promised that bread would be subsidized,[34] this does not solve the long-term issue and further degrades the quality of life of the people in the area, since they become ever more reliant on HTS to survive.

This monopolization of different industries has led to protests, since HTS can control the price of different commodities. For example, in mid-October 2021, after the HTS-affiliated Watad fuel company raised the price of gas cylinders for the fifth time in a month, local residents came out in al-Saa Square in central Idlib to demonstrate against price gouging.[35] One sarcastic slogan among the many shouted during the protest was "We are drowning in your salvation!" in reference to HTS's civil administration.[36]

Likewise, measures that ostensibly would help HTS's SSG fund various projects in the areas in which it operates are punitive to the point that it could severely limit people's livelihoods. For instance, the SSG's General Directorate of Transport issued a decision in early 2018 requiring that all motorcycles be registered within one month, with a penalty of doubling the registration fees and impounding the motorcycle.[37] As a follow-up, on April 4, 2021, the SSG ruled that unregistered vehicles would be confiscated.[38] This led individuals like Dioub, as reported by Jalal Suleiman, to register the[ir] motorcycle and pay a fine, but to do so he "will have to borrow the money" and therefore go into debt.[39] This is a hardship for people like Dioub, whose situation is typical of many in HTS territories, since his motorcycle was his only means of transportation and without it he would not be able to work and provide for his wife and six children.[40]

The situation in HTS territory is so dire that it has become the norm to see children toiling in the streets.[41] Some of them are coerced into engaging in smuggling activities, while others sell napkins, chewing gum, sweets, corn, and hummus on the sidewalks of cities, villages, and IDP camps.[42] On top of the economic pressures, HTS also forces children to attend its training camps to become child soldiers. A video entitled "Generation of Conquerors," likely

only meant for internal use, which this author accessed, shows children doing military drills at an HTS training camp in late November 2020.[43] The video also included a speech around a campfire by HTS ideologue Sharih al-Himsi. This is not mere propaganda. In late May 2020, on the occasion of Eid al-Fitr, Jawlani greeted a group of children to celebrate the end of the holiday. During his speech, he told the children, "we are all on the path to martyrdom." In the same video, among other gifts for children, he gave a small child a toy gun.[44] At the conclusion of his speech, Jawlani said that the martyrs have "preceded us to paradise," but that he and the rest of the audience are, "God willing, right behind them."[45] These remarks illustrate the militarized approach that Jawlani and HTS take with children in the territory it controls.

Overall, the more that Jawlani shifts to focusing on governing territory in addition to the military activities that HTS is already engaged in, the more he is likely to become embroiled in local battles for legitimacy if HTS is unable to improve people's lives over the long term. Consequently, HTS appears increasingly to resemble a traditional Arab government in terms of its activities among the local population.

Authoritarianism

Beyond the economic realm, there are limitations on the degree to which local people can act without harassment or being jailed. HTS's SSG is not a democracy, a form of government that the group continues to reject.[46] There is no true check on HTS's or Jawlani's power. Although the SSG holds elections for its technocratic ministries and the Shura Council, the list of eligible candidates is pre-selected, and only certain people are allowed to vote. No women are allowed to vote or hold any senior-level positions in the SSG.[47] Consequently, the process is elite and male-driven, and most residents in HTS territory have no role in it or in who decides on the rules of society. Local residents live at the whim of this small cohort.

Furthermore, this system benefits the local Sunni population, to the detriment of minorities residing in the territories HTS controls. Much of Jawlani's messaging is about the existential threat that Sunnis face and his



Confirmation voting for SSG prime minister Ali Keda, December 2021.

group's role in protecting them. In one of Jawlani's first appearances after announcing that his group had left AQ in 2016, he told Al Jazeera, "The cause of the people of al-Sham…is a cause of Islam, religion and preserving the Sunnis." He added, "Today, we have entered a stage of defending our existence. That is the state of the Sunni people in al-Sham. If, God forbid, the *rawafidh* [derogatory term for Shia] project hostile to the Sunnis succeeds, if it succeeds in al-Sham, this will extend to transgress on the Sunnis in the entire region."[48] Furthermore, during Eid al-Adha in 2018, Jawlani stated, "know that the interests of the Sunnis, the protection of them, providing them with security and a dignified life, under the protection of the benevolent sharia: this is indeed the foremost of our priorities."[49] Even after the formation of HTS, Jawlani has continued to tie the battles in Syria to the fate of all Sunnis in the region, as he illustrated when he spoke to members of HTS's elite military forces in February 2020: "You are not just defending 12 million displaced [Sunni] people and refugees, and a million martyrs, and blood, and land, and the women violated in the prisons of this regime. No. Rather, you are defending the *umma* in its entirety."[50]

In line with this, in June 2021, senior HTS ideologue Abu al-Fatah al-Farghali released a series of fatwas on Telegram in response to questions from

British researcher Aymenn Jawad al-Tamimi on the group's understanding of different minorities that live in its territory. Christians are considered *mustamin* (a non-Muslim considered to be residing in Islamic lands temporarily with security guarantee despite not paying the *jizya*), while Alawites and Druze are deemed apostates.[51] While the ruling on Christians might appear tame compared to that for Alawites and Druze, HTS has still confiscated at least 550 properties from Christians, including homes and shops, which have not been returned since the practice began in 2015.[52] Even worse, HTS has forcibly converted the Druze from the villages of the Jabal al-Summaq area of the north Idlib countryside to Sunni Islam. HTS has also confiscated the properties of those outside the area.[53] In June 2015, at least twenty Druze individuals were massacred amid a dispute about confiscation of land in the village of Qalb Lawzah.[54] Today, Uyghur members of the HTS-allied, Uyghur-led foreign fighter outfit Katibat al-Ghuraba al-Turkestan occupy many of the properties in Qalb Lawzah that were owned by Druze who are outside the area, and locals claim that these Uyghurs are hostile and abusive toward the original Druze inhabitants.[55] In addition, HTS and other armed groups have confiscated properties in the villages of al-Fua and Kefraya, whose inhabitants were Twelver Shia and were evacuated from the villages in 2018.[56]

While the situation is dire for minorities, many within the Sunni population also express discontent about the limited nature of the political process. Some have different ideological views from those of HTS and its allies about how society should be run. According to the March 2021 report by the United Nations Human Rights Council on arbitrary imprisonment and detention in Syria, there have been seventy-three documented cases of detention of activists, journalists, and media workers who criticized HTS.[57] The report also identifies sixty-four cases of individuals being "disappeared" by the group.[58] For example, Samer al-Salloum was disappeared on December 25, 2017, and according to his brother Mohamed, HTS executed Samer in 2019 alongside nineteen others for criticizing the group.[59]

Many residents in HTS territory have criticized the lack of transparency in these processes for failing to provide reasons for arrests, holding kangaroo trials, and for the treatment of prisoners.[60] According to a lawyer in Idlib, "Death sentences are carried out in secret prisons without trial…Detainees

don't get to have a public trial or to know the evidence on which the decision was made against them."[61] This picture of a lack of legal transparency is corroborated in an article by Abu al-Yaqdhan al-Masri, an Egyptian cleric who was previously in HTS, who also discussed torture in prisons.[62] One of the many protests by locals was held in the Mashhad Ruhin IDP camp in Idlib countryside on August 20, 2021, where protesters called for the release of detainees held by the group."[63] Similar protests occurred in Atarib and al-Baraka IDP camp in late October 2021, and in Deir Hassan in late January 2022.[64] In response, individuals involved in protests or comments online have allegedly been forced to publish videos of themselves apologizing to HTS and its leader Jawlani.[65]

While Jawlani claims that "there is no torture" in the HTS prison system,[66] the UN Human Rights Council points to evidence that the group has "targeted dissenting civilians and routinely tortured and subjected them to ill-treatment in detention facilities."[67] The most notorious for ill-treatment and torture according to the report are the Shahin section of the Idlib central prison, the Harem central prison, and the al-Uqab prison, which consists of caves and underground cells in the Jabal al-Zawiya region.[68] Based on 113 direct accounts of torture or inhumane treatment, "victims described detention in overcrowded and unhygienic cells that, compounded by the lack of medical care, allowed for the spread of communicable diseases."[69] On top of this, torture methods included "severe beatings, placing detainees in a 'coffin,' in a *dulab* (tire), or suspending them by their limbs."[70] Even more disturbing, several male former detainees, according to the report, "described being sexually harassed, forced to strip naked, electrocuted on their genitals and raped in HTS facilities."[71] Other reporting has also provided strong evidence that women are being abducted, tortured, and raped in HTS prisons.[72] Based on this and other data in the UN report, the Human Rights Council concluded that HTS actions in its prison system amounted to "crime(s) against humanity of torture."[73]

Beyond regular activists, HTS also conducts these types of activities against its jihadist rivals in AQ and IS. According to Muzamjir al-Sham, al-Badiyah prison in Idlib city specializes in dealing with AQ prisoners, while al-Zanbaqi prison in western Idlib governorate is where IS members are

held.[74] Those imprisoned in these facilities have allegedly endured different types of torture: "ghosting" (left hanging from a ceiling or doorframe for days), breaking limbs, use of electricity, and pulling out nails.[75] One of these prisoners, the American Bilal Abd al-Karim, who has since been released, has published a video series on how the torture is undertaken.[76] HTS has also allegedly tortured the wives of these jihadist prisoners too.[77]

In relation to women beyond the jihadist movement, one of the instruments that HTS uses to control or hamper women's lives is its *hisbah* (moral policing) apparatus. Of course, *hisbah* can be done against men too, but a large part of it consists of policing women in public. HTS's *hisbah* entity has gone through various phases, from Sawaid al-Khayr, which was formed in June 2017,[78] to al-Falah Center in May 2020.[79] Since August 2021, it has been subsumed into the SSG's Ministry of Endowments, Dawah, and Guidance. As part of this shift, the Ministry launched a campaign called "Guardians of Virtue," which led to events, competitions, and various billboards being put up on the streets to reinforce a message that defines a woman's appearance and manner in a narrow and misogynistic sense.[80] The images below illustrate the through line between the various eras, since the type of messaging



Sawaid al-Khayr members use a billboard to promote rules on women's appearance, including the necessity of full niqab.



Banner from the SSG's "Guardians of Virtue" campaign, September 2021. Such notices contain Quranic content urging women to dress modestly and avoid wearing makeup.

has not changed even if HTS wants to give the appearance that it has, since it is now under its civilian governing body.

According to Syrian journalist Mohammed Hardan, some of the tasks of the *hisbah* are to "prevent men and women from mixing in public places by erecting control points on university campuses and in parks, preventing men from selling women's clothes, banning the display of mannequins at shops, monitoring wedding halls, and banning music and smoking. In addition, it is known to interfere with women's clothing and accessories and forcing humanitarian organizations to separate their staff by gender."[81] This has given free rein to HTS *hisbah* patrols to beat up, flog, or imprison violators. In the aforementioned UN Human Rights Council's report, it documented many cases of women being detained by HTS for traveling without a male member of their family (*mahram*) or for being inappropriately dressed.[82] These are just a few examples:

- Attacks on girls in the Idlib city market occurred in June 2017.[83]
- A female *hisbah* member beat up the female director of exams at Idlib University due to a dispute over her outfit.[84]

- Bus drivers affiliated with an NGO called Violet Organization were arrested, while teachers and students at al-Oruba High School, the Pythagoras Institute, and the Center for Development and Technology were beaten under the pretext of illicit mixing by men and women.[85]
- The *hisbah* forces brought moral charges against a woman and a male merchant for being inside the shop alone, without a *mahram*. They also blamed the merchant for not hiring a female shop assistant for such situations.[86]
- The *hisbah* patrol stopped a woman walking around Idlib's Public Park because she was wearing an allegedly "eye-catching tight dress." *Hisbah* agents then scolded her for more than ten minutes in front of everyone in the park.[87]

These types of actions are accepted even among those less extreme in their religious beliefs due to a culture of toxic masculinity, Syrian researcher and professor of pedagogy Raymond al-Maalouli argues. "Authorities in the north rely in their decisions on strict *fatawa* (plural of *fatwa*) that have nothing to do with the essence of Islam but are in line with society's toxic masculinity," as he explains it. "They produce restrictions out of wrong jurisprudence, old social customs, and masculine culture standards that help men feel righteous and in control over the women in their lives."[88] This is why women have a difficult time performing the most basic functions such as driving. Even though, based on a report from Hadia Mansour, "there is no law or circular preventing women from driving in northwest Syria, society continues to enforce restrictions on women, claiming driving to be a men's right only."[89] Asma al-Mahmoud, an NGO worker in the region, explained that she "encountered lots of harassment by security elements on checkpoints and was frequently questioned about why she was driving without a legal male escort."[90]

These frustrations around HTS's treatment of the local population have led to dissent by opposition media to varying degrees over time. Most notorious is the case of Radio Fresh, a station run by local activists in the town of Kafr Nabl, created in 2013 following the revolutionary uprising. In January

2016, HTS's predecessor group JN stormed the facilities of Radio Fresh for its alleged "secular tendencies and support of apostates."[91] This resulted in the arrests of Radio Fresh's founder Raed Fares and Hadi al-Abdullah as well as the station being taken off the air, its equipment confiscated, and its archives wiped clean.[92] As a consequence of Fares continuing to critique HTS, he and his colleague Hamoud Junaid, were assassinated by HTS in November 2018. According to Fares, a year prior to his assassination, Bilal al-Shawashi, a Tunisian foreign fighter and HTS's head sharia official in Kafr Nabl, harassed him and tried to exile him from his hometown.[93] This came after numerous failed attempts by HTS and its predecessor groups to assassinate Fares in years prior.[94]

Less violent but just as relevant, on August 24, 2021, HTS shut down opposition news channel Orient TV's office in Idlib on account of the vague reasoning of "the channel's bias and hostile policy toward local factions."[95] This is in some ways a culmination of HTS's policies to try to rein in dissent by requiring all journalists that work in its territory to get press cards.[96] While this decision is no doubt a way to formalize HTS's governing structures that might be seen in any country, it is also a bureaucratic tool to block certain actors from gaining access to a press card. In turn, if such an individual tried



An individual receives a press card from the SSG's General Directorate of Information, June 2021.

to report without one, HTS could penalize the individual with fines or jail, thereby silencing journalists who are perceived to be an irritant for HTS. Of course, many individuals have still been able to receive press cards,[97] but others like those still affiliated with Radio Fresh, such as the station's current chief executive, Abdullah Klido, are in a bureaucratic black hole. "We need 100 approvals."[98]

Lastly, there is the case of the pseudonymous pro-AQ HTS critic, called Radd Udwan al-Bughat on Telegram, which was run by an individual who calls himself Abu Abd Allah al-Shami. On November 16, 2021, he announced that he was closing his Telegram account due to intimidating messages sent from HTS officials, which allegedly threatened to reveal the identities and locations of Radd Udwan al-Bughat's relatives who lived in Assad-regime-controlled areas of Syria.[99] This would have meant putting them in danger of arrest or worse. The case illustrates how far HTS would go to undermine its active critics. Such actions were formalized in late February 2022 through the creation of HTS's official cyber entity called the Electronic Jihad Army.[100] It would not be surprising if HTS has also used similar tactics against nonjihadist activists.

In view of the above, it is evident that while Jawlani and HTS are attempting to distance themselves from their past associations with AQ and IS, they have turned in many ways into a local regime that acts like other regional authoritarian states. The question for policymakers is whether Washington should overlook this as it does with its allies in the region.

Before addressing this question, it is worth reexploring actions taken by HTS and its predecessor groups. It would be poor policy for Washington or any European capital to completely ignore major transgressions by Jawlani and HTS. If HTS is serious about wanting to engage with the United States and the West, it must be held to account as well as provide restitution to those whom it has wronged.

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5

Hayat Tahrir al-Sham's Historical Baggage

The previous chapter highlighted the many ways in which Hayat Tahrir al-Sham and its predecessor groups imposed their will, including by forcibly converting Druze to Sunni Islam, confiscating property from Christians, and assassinating the Syrian revolutionary icon Raed Fares. This chapter will identify other reprehensible actions perpetrated by HTS's predecessor groups. Especially noteworthy are their provision of the initial space for the Islamic State to operate and become what it became, their conduct of a military campaign that sought to ethnically cleanse Alawites (including civilians) from parts of the Latakia countryside, and their kidnapping, imprisonment, and torture of two Western journalists.

How Jabhat al-Nusra Helped Facilitate the Rise of the Islamic State

It is commonly known among experts that Jabhat al-Nusra, HTS's predecessor group, was originally created as a branch of the Islamic State's own predecessor, the Islamic State of Iraq. Even as HTS leader Abu Muhammad al-Jawlani rebuffed Abu Bakr al-Baghdadi's announcement of the Islamic State of Iraq and al-Sham in April 2013, he praised Baghdadi for having helped provide essential resources when JN was created, calling him "that honorable Shaykh who gave the people of al-Sham their right…he aided us…despite the hard days that [ISI] was enduring."[1] In mid-December 2013, before ISIS was ejected from many Syrian rebel enclaves later that month

and in early January 2014, Jawlani explained in an interview with Al Jazeera that the situation between JN and ISIS was "a conflict between individuals within the same house."[2] This illustrates the framework within which Jawlani still viewed ISIS.

While JN initially tried to stay out of the rebel infighting with ISIS, the differences became irreconcilable once al-Qaeda released a statement on February 2, 2014, disaffiliating itself with ISIS and later, on February 23, with the assassination of key AQ liaison and HASI senior leader Abu Khalid al-Suri.[3] Regarding the latter, Jawlani appeared to denounce ISIS for hypocrisy, likening Abu Khalid's killers to the *sahawat* ("awakening councils") in Iraq that turned away from AQ in favor of the United States. "The *sahawat* in Iraq are those who abandoned fighting America and the *rafidah* [derogatory term for Shia], and exchanged this for fighting the mujahedin with the enemy. And in al-Sham, who is the one who has abandoned fighting the *nusayris* [a derogatory term for Alawites], and started fighting those who fight the *nusayris*?"[4] Likewise, two days after Abu Khalid's assassination, JN released an essay clarifying its *manhaj* (methodology) in contradistinction to ISIS.[5]

Nevertheless, by then it was too late, since ISIS had successfully built itself up in the previous ten months or so within Syria. Not only did the



ISIS and Jabhat al-Nusra members come together at Eid al-Adha, October 2013.

space that JN gave to ISIS provide the latter with new fighters, weapons, and greater financial stability; it also helped undermine the fight by nonjihadist rebels against the Assad regime. A large portion of the territory that had previously been under nonjihadist rebel control would fall under ISIS and its successor group, the Islamic State, in the months and year to come. Likewise, a large part of ISIS's campaign and initial dispute with JN was over Jawlani and JN's refusal to do Baghdadi's bidding and assassinate key Syrian activists and rebel leaders given that ISIS viewed them all as apostates.[6] From that point forward, ISIS was able to use its new resources to take territory in Iraq, which in turn helped it consolidate its control in eastern Syria.

In many ways, the initial entrance of JN into the Syrian conflict, which in turn provided the space for ISIS to enter, helped seal the fate of the Syrian opposition and rebellion, ending any chance it may have had to topple the Assad regime. It is plausible that the opposition and revolutionaries still would have eventually failed due to the sheer barbarity of the regime, but the entrance of jihadists and their foreign fighter cohort reduced any chance of outside help that could have facilitated the fall of the Assad regime, lest the country fall into the hands of either JN or ISIS.

Campaign Against Alawites

Beginning on August 4, 2013, the first day of Eid al-Fitr, which marks the end of Ramadan, JN, ISIS, and other Salafi insurgent groups began a campaign against Alawite territories in rural Latakia. This campaign was active through August 18, 2013. On the first day, according to Human Rights Watch, 190 civilians were slaughtered as these groups took over ten villages. "Most of these individuals were either intentionally or indiscriminately killed" and "the crimes were premeditated and organized."[7] Therefore, Human Rights Watch concluded, "the killings, hostage taking, and other abuses committed…rise to the level of crimes against humanity."[8] While JN and other groups described it as the "Battle to Liberate the Coast in Rural Latakia," ISIS called it "Cleansing of the Coast Operations."[9]



One of many rocket attacks against Alawite population centers, Latakia governorate. This launch occurred in August 2013.

The violations Human Rights Watch documented on the first day of the campaign were broadly indicative of attacks that JN would conduct against Alawite civilians militarily and ideologically. During the days of JN, Jawlani would consistently refer to Alawites as *nusayris*, which is degrading at the lowest level—the equivalent of calling a black person the N-word in America. In his comments, he did not distinguish civilians from the regime, in part because much of the upper echelons and decisionmaking therein were from the Alawite sect. "For sure, Bashar al-Assad does not kill by himself, he kills with them [*nusayris*]."[10]

However, the massacre of women and children and the arbitrary targeting of civilian villages was still egregious, even if the crimes committed by the Assad regime were far worse and on an industrial scale. It still does not excuse the actions taken by JN, such as its "eye for an eye" campaign in the aftermath of the Assad regime's horrendous chemical weapons attack against civilians in the Ghouta area of the Damascus suburbs. In announcing the campaign, Jawlani exclaimed that "the revenge for the blood of your sons is a debt in our necks and the neck of every mujahid, and we won't be free

from it until we make them taste what they made our sons taste since it has been legalized for us to punish in the same way."[11]

While Jawlani's rage is legitimate, responding in kind with war crimes, even if not on the same level of brutality as the Assad regime, illustrates the bankruptcy of his and his group's worldview. This particular campaign lasted until September 14, 2013.[12] And while some of the attacks conducted in this campaign were against military targets, they also included the assassination of an Alawite cleric and random bombings of the Alawite village of Bahlouliya (as shown in the earlier image).[13] The examples discussed in this section on an ideational and military level are merely the tip of the iceberg regarding actions taken against Alawite civilians.[14]

Imprisoning and Torturing Western Journalists

Most people became aware of the reemergence of ISIS through its beheading campaign against Western and Japanese journalists and humanitarian workers in the fall of 2014. Yet ISIS was not the only group that kidnapped foreigners. While JN never conducted such theatrically sadistic acts as ISIS, it still kidnapped individuals, including Western journalists. Some examples were the cases of American journalists Theo Padnos and Matthew Schrier, even though Jawlani feigned ignorance in his interview with Martin Smith. "We never had American prisoners, in the first place, not during the Nusra time or even now. This is the first time I hear about it."[15] However, Padnos, who was imprisoned longer than Schrier since he escaped, was held by one of Jawlani's top lieutenants, Abu Mariya al-Qahtani,[16] which illustrates the caveats one has to take into account when analyzing Jawlani's interview with *Frontline*.

Padnos ended up being released via an alleged ransom payment by the Qatari government. Following their return to the United States, both journalists wrote memoirs of their experiences as prisoners of JN. Both go into great detail on their torture. The techniques used against them were similar to ones described earlier that HTS continues to use against activists and jihadist enemy prisoners. According to Padnos, torture had a particular

stench, and they knew when it was coming: "When there is torture, they reek of the patchouli oil the men in black put in their beards. Every time you smell the oil, you know those men are on their way into the cell block."[17] Ahead of Schrier's escape, he quipped that "in an hour and a half we [he and Padnos, who was unable to escape] would either be free, dead, or wishing they'd kill us to end the torture."[18] This highlights the level of torture that Schrier knew JN to be capable of based on their experiences while imprisoned. Unlike the cases with ISIS, both Padnos and Schrier survived. However, they showcase the crimes directly committed by JN against American citizens.

Although this chapter is not an exhaustive discussion of crimes committed by JN, it is useful to remember some of the better-known cases when contemplating future policy related to the group in its current form. The failure to procure an admission of guilt or justice for the victims ahead of any prospective policy change would give the current leadership of HTS an unwarranted pass.

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6

External Operations, Guidance, and Inspiration

As U.S. Syria representative James Jeffrey noted, HTS has sought to let Washington know that "We want to be your friend. We're not terrorists. We're just fighting Assad…We're not a threat to you."[1] While such rhetoric may appear desperate or odd, it partly aligns with Jawlani's policies when he led JN. In a May 27, 2015, interview with Al Jazeera, Jawlani claimed, "We are only here to accomplish one mission: to fight the regime and its agents on the ground, including Hizb Allah and others. Jabhat al-Nusra has no plans or directives to target the West. We received clear orders [from Ayman al-Zawahiri] not to use Syria as a launching pad to attack the United States or Europe so as not to sabotage the true mission against the regime. Maybe al-Qaeda does that [elsewhere], but not here in Syria."[2]

Some may counter that the so-called Khorasan Group, which was embedded within JN over the 2013–16 period, was interested in planning external operations abroad. While this assessment contains some truth, the dynamic between JN's historical leadership and those involved in the Khorasan Group must be disaggregated based on newer information that illuminates differences and disagreements between these two entities. Although from the outside these gaps appeared to be trivial, they were actually a harbinger of subsequent events. In many ways, the Khorasan Group was a proto-version of Huras al-Din.[3]

Following the split between Jabhat al-Nusra and the Islamic State in April 2013, JN was officially an AQ branch and no longer just an IS subsidiary. Yet according to Muzamjir al-Sham, "al-Jawlani was completely unknown [to AQ's senior leadership] and his *baya* to al-Qaeda occurred suddenly and

without complete coordination."[4] This was in contrast to a series of historical AQ leaders whom Zawahiri knew and sent to Syria from Afghanistan, Pakistan, and Iran over the ensuing years to shore up support in light of the Islamic State's war against al-Qaeda and its branches. That cohort became known colloquially as the Khorasan Group because of its region of origin. The arrival of these AQ leaders created tensions within JN's leadership starting in 2013–14, as AQ pressed JN to accommodate leaders within the JN shura council. In addition, figures such as Sami al-Uraydi, Samir Hijazi (aka Abu Hamam al-Suri), and Radwan Namus (aka Abu Firas al-Suri) acquired senior leadership positions within JN.[5]

Jawlani was also allegedly uncomfortable with the more purist theological positions of these figures. Related frictions allegedly led to a potential coup plot by AQ leader Abd al-Muhsin Abd Allah Ibrahim al-Sharikh (aka Sanafi al-Nasr) against Jawlani in late 2014.[6] While that plot, if it existed, was unsuccessful, according to Saleh al-Hamawi, one of JN's founding leaders, Zawahiri tried to isolate Jawlani in late 2015 by appointing Abdullah Muhammad Rajab Abdulrahman (Abu al-Khayr al-Masri) as the leader of JN. Abdulrahman had recently arrived to Syria from Iran after a prisoner exchange between al-Qaeda in the Arabian Peninsula and Iran.[7] This move backfired, however, and in retrospect it could be one of the reasons Jawlani and JN decided to break ties with AQ about a half-year later.

Both these internal dynamics and the sparing of JN's original leadership by the U.S. drone campaign suggest that, unlike Khorasan Group figures, JN likely was not plotting international attacks. Thus, the situation was far more complicated than it appeared from the outside during the 2014–16 period. Nevertheless, it is possible that, because of the accessibility of propaganda by Jawlani and JN or more recent content from HTS, the group could still inspire someone in the West to plot an attack at home. For example, when looking at the pre-HTS period, a number of occasions emerge when Jawlani describes America as an enemy that is conspiring against JN, conducting a war against the so-called mujahedin, and disparaging Syrian rebel groups that have taken assistance from Washington.[8] Other, more recent problematic issues from the U.S. perspective include Jawlani's rhetorical support for the Taliban and perception of it as a model—even if the Syrian

and Afghan contexts are different[9]—his backing of Hamas terrorism in the Gaza-based group's ongoing war against Israel, denunciation of alleged cases of blasphemy against the Muslim prophet Muhammad within HTS, and HTS leaders' current discourse that could inspire attacks in the West even if the group is not directly calling for them.[10]

Israel and Hamas

This section highlights the ways in which HTS frames the Israeli-Palestinian conflict to local constituents and how it may be understood by those in the West who are viewing HTS's online media and know that Western countries are allied with Israel. This section does not intend to get into the deep and complicated history between Israel and the Palestinians or Hamas in particular.

In the most recent Hamas-Israel war in May 2021, HTS issued a statement illustrating the group's thinking vis-à-vis the Palestinian cause in terms of the Muslims of historical Bilad al-Sham (greater Syria) and the global Muslim community (*umma*). This belies the notion that HTS is solely a Syrian nationalist group;[11] rather, it sees itself as part of a solution related to the issue. Jawlani explained that "what happened the past three days renewed the Islamic spirit across the Islamic world in a clear and major way."[12] Similarly, senior HTS ideologue Abu Mariya al-Qahtani, posting on Twitter a video of rockets launched by Hamas from Gaza and shot into civilian areas in Israel, attached the following note: "These scenes delight the believers and make the hypocrites sad…Today, the lions of Gaza are turning the night of the Zionists into day. May God bless the lions of Qassem in bombing them."[13] This was further reinforced by HTS's Manarat al-Huda Dawa Center, which created an exhibition titled "Al-Aqsa, Our Cause," and was shown in Idlib, Jisr al-Shughour, Atme, and al-Dana in June 2021.[14] The exhibition was attended by students, tribal figures, and members of the HTS-backed Salvation Government, among other locals.

Additionally, HTS ideologue Abu Mariya al-Qahtani and online HTS influencer Abdulrahman al-Idrisi have promoted Hamas-backed terrorist



A member of HTS's Manarat al-Huda Dawa Center explains historical "Bilad al-Sham" in Jisr al-Shughour.

attacks against civilians such as the one in Jerusalem on November 21, 2021, that killed one individual and injured three others. In reaction to the attack, Qahtani stated, "the Palestinian people teach the *umma* sacrifice and redemption. At a time when the defeated rush to disbelief (*kufr*), and race to vice and humiliation, we see men who sell themselves to God and race to heaven. And from here I greet our people in Palestine in general and Jerusalem in particular."[15] Similarly, Idrisi exclaimed, "The *umma* is awake and has not slept, its blood is flowing and its heart is beating! The #al-Quds_Operation implementer (may God have mercy on him), during his *inghimasi* attack on a group of the Zionist occupiers."[16]

While not directly inciting an attack, this statement creates an atmosphere that may inspire a supporter of HTS in the West to take things into their own hands and potentially attack a synagogue or a visibly Jewish individual because of their own anti-Semitism, even if those targets have nothing specifically to do with Israel, as has been seen in other cases in the West.[17] The barrier to committing such an act is not very high compared with other types of violence, since nonjihadists also attack Jews, and such attacks spike whenever there is a conflagration between Israel and its enemies.[18]

Blasphemy

In a similar vein, the issue of blasphemy as it relates to the Prophet Muhammad is a sensitive topic that has led states and individuals to take perceived slights as sanction to call for an act of violence. Jihadists have been involved in attacks against those they deemed to have blasphemed. The most notable among them was perpetrated against the Danish cartoons and the French satirical magazine *Charlie Hebdo*.[19] In relation to the latter, a French schoolteacher, Samuel Paty, was beheaded in Conflans-Sainte-Honorine, France, on October 16, 2020. He had shown the *Charlie Hebdo* issue with the cartoons in his moral and civic education class about freedom of speech, yet before showing them, he allowed any Muslim student to leave beforehand if they wanted to.[20]

The last contact of the perpetrator, Abdoullakh Abouyedovich Anzorov, an eighteen-year-old Chechen immigrant, was allegedly Farouk al-Shami, a Tajik member of HTS based in Idlib. French investigators believe he may have influenced Anzorov to conduct the attack.[21] It is unlikely that HTS as an organization had anything to do with the attack, yet it illustrates that individuals living in its territory could entrepreneurially link up with those abroad and incite them to act. This is why having other smaller groups that are designated as Foreign Terrorist Organizations, or foreign fighters in general, in HTS territory is likely problematic from the U.S. perspective and hinders Washington's interest in considering the group for removal from the FTO list. Nor does it help that HTS's civilian governing body, the SSG, released a statement "calling on everyone to shoulder their responsibilities in defending Muhammad" in relation to France and President Emmanuel Macron in the aftermath of the attack, which was an implicit threat in the context of HTS's worldview.[22]

Looking beyond Israel or blasphemy, in August 2021 senior HTS ideologue Abu al-Fatah al-Farghali praised an attack conducted by its rival Huras al-Din against the Assad regime in Damascus, calling it "a blessed operation."[23] He added: "May God reward the best of those who carried it out."[24] And while this author has no sympathy for the Assad regime, all of the above illustrates that the issue of HTS and terrorism is not black-and-white, even

if the group tries to portray it as such. One of HTS's auxiliary media outlets, Shamukh, still features old audio messages from al-Qaeda leaders Osama bin Laden and Abu Yahya al-Libi as well as Abdullah Azzam,[25] illustrating that while they may have broken away from AQ's current version of itself, those within HTS's network still hold onto that historical heritage from the broader jihadist movement.

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7

The Terrorism Designation Question

For much of the post-9/11 era, decisions related to jihadist groups have been relatively straightforward. This is not surprising, since both al-Qaeda and the Islamic State have represented extremists that espouse a Manichean worldview, are unwilling to compromise on their ideology, and continue to conduct terrorist activities. Hayat Tahrir al-Sham is more complicated. While ostensibly still a militant group, it governs and controls territory and therefore behaves like a state actor even if it is not recognized by the international community. Violence targeting civilians committed by nonstate groups is more likely to be labeled as terrorism, while similar abuses by states are more commonly called human rights violations. Of course, states can be sponsors of terrorism—even though no evidence suggests that HTS and its Syrian Salvation Government are sponsoring other entities to conduct terrorism outside its territory, let alone against Western targets.

HTS is not the first terrorist group to control territory or engage in governance; thus, this dilemma is not unique. Yet in the context of the jihadist community over the past two decades, the way HTS is positioning itself and attempting to show it has moved out of the AQ and IS orbit differs from anything seen so far. Therefore, it is incumbent on the United States to decide how it classifies HTS and how forward leaning it wants to be in encouraging HTS or other jihadist groups to move away from terrorism as a tactic.

The realist angle appears to reflect U.S. Syria representative James Jeffrey's approach when he began back-channel talks with HTS. As he put it, "They are the least bad option of the various options on Idlib, and Idlib is one of the most important places in Syria, which is one of the most important

places right now in the Middle East."[1] During the Biden administration, however, based on this author's understanding of current policy, there has been no desire to engage with HTS.

The State Department has established three legal criteria for a terrorism designation under Section 219 of the Immigration and Nationality Act.[2] Within it are a number of subcategories also considered in potential designations. Based on these criteria, since HTS broke ties with AQ, five parts of the legal definition can still apply (see annex for the full version of these legal preconditions):

- It must be a foreign organization.
- The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
- An assassination.
- The use of any explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.
- Premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents.

The first of these five parts is self-explanatory. The second relates to the imprisonment and torture of political activists as well as the seizure of Christian and Druze property. The assassination of Raed Fares would fall under the third. The fourth could apply to continued rocket launches against civilian Alawite communities or HTS's shooting at protesters demonstrating against its rule. The fifth is a reiteration of actions already described. Therefore, it does make sense for Washington to continue to designate HTS as a Foreign Terrorist Organization. Yet it is worth considering, even if farfetched in the near term, what other authorities there could be to sanction HTS if it did move below the legal threshold for being a terrorist group in a potential future five-year review window.

Alternative Sanctions Regime?

If Washington deemed that HTS no longer reached the full legal threshold for designation, alternative sanctions could still be applied to hold the group and its leaders accountable for their actions. One is Executive Order 13572, "Blocking Property of Certain Persons with Respect to Human Rights Abuses in Syria,"[3] signed by former president Barack Obama in late April 2011. The Treasury Department could consider designating HTS under the following clause: "any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of human rights abuses in Syria, including those related to repression."[4] If E.O. 13572 or other human rights sanctions authorities are applied, the Treasury Department could also issue new or update existing licenses related to humanitarian activities that would facilitate the flow of additional aid to populations in need in Idlib. Although individually designated terrorists would still be present in Idlib, the advantage of pursuing non-counterterrorism (CT) sanctions against HTS would be that they do not carry criminal material-support liability, meaning that a U.S. Office of Foreign Assets Control license may be sufficient to encourage humanitarian actors to expand activities. Furthermore, it may encourage HTS to sideline individuals designated under CT authorities.

One way to also split the difference would be to have the Treasury Department sanction particular HTS leaders, thus blunting those individuals' abilities to take advantage of a changed sanctions regime. Likewise, similar to the process followed with the Revolutionary Armed Forces of Colombia (FARC), those specifically advocating terrorism and those particular individuals and leaders involved in past and current human rights abuses could still be held to account while allowing the rest of society and more forward-leaning HTS leaders within its territory to move forward.[5]

However, such a decision would likely create a political issue domestically, especially in Congress. Most recently, the controversy over designating, undesignating, and potentially redesignating the Iran-backed Yemeni militant group the Houthis illustrates these political complications. Of course,

the actions of HTS these days are far less egregious than those perpetrated by the Houthis against the Yemeni population as well as its drone and missile attacks against Saudi Arabia and the United Arab Emirates. Therefore, if this were a sanctions regime that could be used as an alternative in the future, HTS would have to continue to show progress in rooting out foreign fighters and other Foreign Terrorist Organizations locally—including those allied with HTS—as well as ceasing to glorify terrorism abroad or launch rockets into civilian areas.

Beyond the political ramifications in the United States, there are other potential consequences worth considering when providing such leeway with a changed type of sanction. HTS could use the opening on humanitarian licensing to monopolize the delivery of humanitarian aid—as it has been doing in other sectors—and also levy taxes on international NGOs for being in its territory.[6] Regarding the former, according to humanitarian aid scholar Natasha Hall, "some aid workers already reported pressures to positively review projects, target certain beneficiaries, hire NGO employees linked with HTS, and ensure favored contractors win tenders offered by NGOs."[7] Local Syrian NGOs also worry about data privacy.[8] Thus, enhancing HTS's power would make it more likely over time that HTS will be seen as the sole interlocutor in the same way that international actors are now approaching the Assad regime with respect to the humanitarian catastrophe in the regime's territories. In many ways, arguments about legitimizing HTS are the same as those related to normalization with the Assad regime: this particular actor won and is in charge, residents under him are suffering, therefore it is necessary to work with and through him to help those suffering under the yoke of both regimes.

Alternatively, Hall suggests that "a more collective donor and UN approach to negotiating with HTS leaders over regulatory frameworks for the aid response would protect humanitarian space and even allow for a shift to assistance promoting greater resilience." It would therefore be wise for U.S. agencies, if the terrorism designation is changed to a different type of sanction regime, to collaborate and coordinate with key humanitarian actors internationally and locally that have operated in Syria and would seek to do more in the future if the environment for humanitarian aid improved.

If such an alternative came to pass, this would hopefully create a united front to undermine HTS's ability to take advantage of the aid coming into its territory in the same way that the Assad regime has abused humanitarian aid over the course of the Syrian war. Instead, it would actually help those most in need and not those in power trying to cynically exploit the situation. Of course, these are a lot of "ifs," since Washington could easily keep HTS's current terrorism designation for the foreseeable future.

Potential Conditions

If Washington were interested at some future date in changing HTS's terrorism designation to a sanctions regime more specific to its actions during the Syrian war, it would be wise—through a possible reopening of back-channel communications—to outline potential steps HTS could take to allay fears that this change would only further consolidate the group's authoritarian grip over the territories where it operates. The United States may have its own checklist of specific actions related to the designation criteria described earlier. Beyond these criteria, the following are some markers that Washington should consider requesting from HTS, even though the group would likely view some of them as absurd. At the same time, it would be almost farcical for HTS to expect the United States to change its designation without gaining anything in return.

- **Allow human rights organizations to inspect prison facilities and independently report findings.** In Jawlani's *Frontline* interview, he announced, "Perhaps some human rights organizations could come and supervise the prisons and supervise—or take a look at the prisons. Our institutions are open to everyone. Organizations are welcome."[9] It would be worthwhile to test this and possibly to gain something positive, such as improving HTS's prison system.
- **Release political prisoners and provide restitution.** If any individuals have been killed or died while held in prison by HTS, the group should provide monetary assistance to affected family members.

- **Form a truth and reconciliation commission.** This would be an important step to show that HTS is serious about accounting for its past and current human rights violations. It would also show that it is a serious and more mature actor capable of self-criticism and would allow the population to move forward once such a commission was established, allowed to independently operate and investigate past crimes, and have actual coercive measures to bring people that have been in HTS and its predecessor groups to justice once a dossier and report are filed publicly and online.
- **Open up the SSG's shura council and prime ministerial elections to the entire population—including women.** This would create a fairer system whereby everyone in society has a voice.
- **Allow the United States and other governments to fund civil society and pro-democratic entities in HTS-controlled areas.** A "snapback" sanctions mechanism should be put in place if actions are taken against activists.
- **Dissolve HTS and completely subsume its infrastructure into the Syrian Salvation Government.** It is unlikely that HTS would accept this step, but it would be a smart opening position for any U.S. negotiations with the group. Civilian control of armed forces is one of the most fundamental features of a stable, functioning government. If HTS is serious about wanting to be delisted, HTS should disband and act as a normal government would by not having a military structure that is outside the bounds of the legal governing body. HTS's fighting forces would be placed under a potential Ministry of Defense. Currently, there is no equivalent structure within the SSG, highlighting the problematic nature of HTS's apparent attempt to engage in "formal distancing" from its authority on the ground through the SSG, when in reality HTS has true control from behind the scenes on the most sensitive issues. A defense ministry would also effectively fall under the SSG's prime minister who would lead independently without Jawlani having to legitimize the SSG's activities. Conversely, if he really wanted to lead in a public manner, Jawlani should run for prime minister in an election.

- **Top HTS historical leadership should voluntarily resign, serve prison terms for past crimes, and then retire once their terms have been served.** This is a corollary to the above request. Ideally, those leading the group in the past decade would be brought to account to provide some degree of justice to the victims of HTS and its predecessor groups. It is possible to consider aspects of the model applied to the Cali Cartel in Columbia whereby some of the leaders voluntarily handed themselves in, served a prison sentence, and then retired. In this case, because of Turkey's unstated alliance with HTS, putting key HTS leaders involved in past human rights violations into Turkish prisons makes comparative sense, since the Assad regime does not follow the rule of law. Even though Turkey unofficially works with HTS, the Turkish government has designated HTS as a terrorist group. After serving their prison sentences, these leaders could remain in Turkey and no longer be involved in HTS or SSG activities. This option would potentially provide a way to legitimize the SSG and its work as well as the actors involved in its structures.

While these potential markers could be a starting point in possible negotiations, the appetite for arriving at any type of arrangement within the U.S. government is limited at best. It is also worth underscoring the points made by Syrian researchers Rahaf Aldoughli and Azzam Al Kassir, who along with many other Syrians inside and outside HTS territories would view any type of accommodation as poor policy "driven by either a humanitarian idealism or sheer geostrategic realism" as well as undermining the "the hope of building sustainable peace in a unified Syrian state."[10] This author believes that the smartest policy would be to continue with the current designation until HTS makes more changes. Still, it would be worthwhile to test whether HTS is more willing to open up its political system and be held accountable for past crimes—however unlikely it is to do so. In summary, then, changing HTS to a different sanctions regime is not plausible at this point, even if it is worth laying out potential policy tools Washington could use depending on its priorities.

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8

Conclusion

Whether Washington decides to take action on Abu Muhammad al-Jawlani's requests for delisting of Hayat Tahrir al-Sham as a Foreign Terrorist Organization remains to be seen. As the United States shifts resources to focus more on China and Russia and less on the jihadist challenge, Washington may prefer the status quo since, from a strategic perspective, HTS and the areas it controls are not seen as important compared with other issues in the broader region, let alone globally.

That said, HTS's evolution into a more politically than theologically focused jihadist group is worth understanding, since similar dynamics could play out elsewhere. Of course, each context and group is different, and a detailed understanding of those dynamics is key to comprehending any shifts that may be occurring. Nevertheless, jihadist groups that are increasingly focusing on diplomacy and negotiations—in addition to their better-known insurgent, terrorist, and local governance activities—illustrate the greater complexity that adversarial governments and actors must consider when trying to isolate, deter, or defeat these groups.

It is also worth highlighting that other groups have begun to disavow external operations in Western countries, notwithstanding skepticism about the sincerity of these remarks. Groups such as al-Qaeda in the Islamic Maghreb—and likely its subsidiaries in Jamaat Nusrat al-Islam wal-Muslimin—and Tehrik-e-Taliban Pakistan (TTP) also have said recently that such external operations are no longer their interest and focus. It is possible, however, that these groups could still see attacks against Western targets in their own regional enclaves as legitimate, which would discourage any

Western government from engaging with them. For example, in June 2021 AQIM leader Abu Obaida Yusuf al-Annabi said that France was "deceiving" its citizens by saying that the country's operations in Mali were necessary to protect France from jihadist attacks at home, because there has never been an attack on French soil by a Malian or orchestrated by Mali-based jihadists.[1] More recently, TTP spokesperson Muhammad Khurasani released a statement saying that the group has no global agenda and that its war is limited to Pakistan.[2] Interestingly, he asked in the statement for the "United States to support the TTP in fighting against the Pakistani state for the rights of the oppressed tribes."[3] Even between those groups, there are gradations in how they frame this issue.

Thus, it is likely that the HTS-related issues presented in this paper will increasingly become larger policy dilemmas that Washington must address in relation to certain jihadist groups. Having a policy to potentially deal with these vexing and likely uncomfortable issues is worth thinking through even if, in the end, the United States and other governments decide to retain a wholly securitized approach to groups that have changed at the edges. This is due not only to jihadist groups gaining strength as local governments weaken, but also to Washington's greater focus on power competition with Russia and China. Therefore, less worry about jihadist groups than in the immediate 9/11 aftermath could be viewed as an opportunity to concentrate resources elsewhere. It is important to remember that these jihadist groups are ideologically opposed to Washington and the West's interests in promoting a more liberal world order. As a consequence, any potential changes would be transactional at best. Washington will have to calculate the costs and benefits of changing its current policy course with HTS.

Whatever the United States decides in the end, at the very least, viewing Jawlani and HTS through the al-Qaeda prism is disconnected from reality and will lead to incorrect assessments of the group. A flawed understanding of the group's current nature, however extreme and authoritarian it continues to be, could create other problems in the future. Regardless of next steps from Washington, the age of political jihadism is here.

Notes

1. Sheikh Abu Obaida Yusuf al-Annabi, "And God Will Surely Support Those Who Support Him," al-Andalus Foundation for Media Production, June 20, 2021, https://bit.ly/3iToSsj.
2. See Abd. Sayed (@abdsayedd), "TTP spokesman Muhammad Khurasani rejects all claims about its links with AQ/IS. He adds TTP does not have any global agenda, & its war is limited to Pakistan alone. He asks 'the U.S. to support the TTP in fighting against the Pakistani state for the rights of oppressed tribes,'" post on Twitter, February 12, 2022, 4:37 a.m., https://twitter.com/abdsayedd/status/1492432632784863232.
3. Ibid.

Appendix

Legal Criteria for a Terrorism Designation

Legal criteria for a terrorism designation under Section 219 of the Immigration and Nationality Act:[1]

1. It must be a foreign organization.
2. The organization must engage in terrorist activity, as defined in section 212 (a)(3)(B) of the INA (8 U.S.C. § 1182(a)(3)(B)), or terrorism, as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. § 2656f(d)(2)), or retain the capability and intent to engage in terrorist activity or terrorism.
    a. Section 212 (a)(3)(B) of the INA (8 U.S.C. § 1182(a)(3)(B)): defines "terrorist activity" to mean: any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:[2]
        i. The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).
        ii. The seizing or detaining, and threatening to kill, injure, or continue to detain, of another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
        iii. A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

1. Section 1116(b)(4) of title 18, United States Code means a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.[3]

iv. An assassination.

v. The use of any—

1. biological agent, chemical agent, or nuclear weapon or device, or
2. explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

vi. A threat, attempt, or conspiracy to do any of the foregoing.

b. Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. § 2656f(d)(2)) defines "terrorism" as "premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."[4]

3. The organization's terrorist activity or terrorism must threaten the security of U.S. nationals or the national security (national defense, foreign relations, or the economic interests) of the United States.

Notes

1. See here: https://www.state.gov/foreign-terrorist-organizations.
2. Office of the Coordinator for Counterterrorism, "Immigration and Nationality Act Section 212," U.S. Department of State, April 8, 2008, https://2001-2009.state.gov/s/ct/rls/fs/08/103399.htm.
3. See here: https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=18-USC-216574708-1528478296&term_occur=999&term_src.
4. Office of the Coordinator for Counterterrorism, "Foreign Relations Authorization Act, Fiscal Years 1988 and 1989: Terrorism Definition," U.S. Department of State, April 8, 2008, https://2001-2009.state.gov/s/ct/rls/fs/08/103401.htm.

"A brilliant analysis of the political trajectory of Hayat Tahrir al-Sham, together with a fair and sensible assessment of the policy dilemma that this poses. How should the West approach a group that has abandoned al-Qaeda but models itself on the Taliban? That is the question that Aaron Zelin takes up in this illuminating study."

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