

International Law of Armed Conflict from an Islamic Perspective: Human Dignity in the Midst of War

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Abstract

We are witnessing a continual rise in wars, conflicts, and human rights violations worldwide. Despite the convictions for genocide and crimes against humanity by the International Tribunal for War Crimes in the former Yugoslavia and Rwanda, such atrocities persist today. One of the most egregious examples of genocide and violations of all Geneva Conventions today is the Israeli aggression in Gaza. Although International Humanitarian Law exists, it is often disregarded, leaving international law largely ineffective in practice. Thus, religion can be utilized as a model for achieving peace and a ceasefire in our contemporary world as one of the most reliable options available. This paper explores the International Law of Armed Conflict from an Islamic perspective, emphasizing the role of human dignity during warfare, and highlights the convergence of Islamic legal principles with modern IHL, particularly in protecting non-combatants and upholding human dignity. The paper also discusses the integration of religious principles into humanitarian action, illustrating how Islamic values of compassion, justice, and charity align with IHL concepts like humanitarian corridors and the protection of non-combatants. Through historical examples and religious texts, the paper argues for the inclusion of religious approaches in contemporary conflict resolution, suggesting that Islamic principles offer valuable insights for achieving lasting peace and reconciliation.

Keywords: Human Dignity, IHL, International Law of Armed Conflict, Islam, Peace, Reconciliation, War.

Introduction

Despite the efforts of hundreds of non-governmental organizations dedicated to conflict resolution worldwide, the unfortunate reality is that the number of armed conflicts continues to rise. This troubling trend underscores the critical need for the Law of Armed Conflict, also known as International Humanitarian Law, as a fundamental tool to mitigate the humanitarian impact of these conflicts. IHL not only provides a legal framework to protect those affected by war but also mandates humanitarian action to alleviate suffering, as its very name suggests. In addition to legal frameworks, the integration of Islamic religious principles, particularly those promoting peace and coexistence, is increasingly recognized as essential in the global effort to prevent wars and conflicts. Islam, with its deep-rooted teachings on compassion, justice, and the sanctity of human life, plays a vital role in spreading messages of peace and fostering a culture of coexistence. By

incorporating Islamic values into conflict resolution strategies, the potential to achieve lasting peace and reduce the incidence of armed conflict is significantly enhanced.

It has been observed by the legal adviser of the International Committee of the Red Cross, Dr. Ahmed Al-Dawoody, that Islamic legal literature dealing with the regulation of armed conflict is extensive and detailed. Accordingly, it appears that classical Muslim jurists had in mind a similar set of philosophical and legal principles as those incorporated into modern International Humanitarian Law. The ultimate objective of Islamic legislation is to humanize armed conflict by protecting the lives of non-combatants, respecting the dignity of enemy combatants, and prohibiting damage to their property (Al-Dawoody, 2017).

Islam considers conflict to be a disruptive force that undermines social stability and cohesion. However, on the other hand, emphasizes the importance of peace, unity, and cooperation among individuals and communities, as well as the fact that conflict may lead to the division, injustice, and suffering of individuals and communities. In addition, Islam teaches that it is the responsibility of every Muslim to actively promote conflict resolution and harmony whenever disputes arise. Islam values the peaceful coexistence of all beings under the guidance of God's will, which is seen not only as a means of maintaining communal harmony, but also as a means of preserving divine order. Therefore, Muslims are encouraged to resolve disputes as a part of their daily lives as a symbol of their spiritual and moral obligations. Conflict resolution is therefore considered an indispensable aspect of Islamic practice.

According to Heba Aly (2014) The International Committee of the Red Cross, in its capacity as the guardian of International Humanitarian Law mandated by the Geneva Convention, emphasizes that Al-Awza'i (Islamic scholar, year 707 – 774) and Al-Shaybani (Islamic scholar, year 749 – 805) sealed the way for modern international law of armed conflict by asserting humanity during wartime. These early codifiers of Islamic law of war, humanity was affirmed as a fundamental principle.

War and human dignity in Islam

Almost all of the fundamental categories of protection which the Geneva Conventions provide could be found, in a basic form, in the teachings of Islam more than a millennium before the conventions were codified (Bennoune, 1994). Under Islamic law, comprehensive guidelines were established for the conduct of warfare, emphasizing the protection of non-combatants, the treatment of prisoners of war in a humane manner, and the protection of civilian life and property. In addition to these fundamental principles, Islam adheres to an ethical and moral framework which emphasizes justice, mercy, and the dignity of human life even in times of conflict. There are parallels between the Geneva Conventions and Islamic teachings that illustrate the advanced nature of Islamic humanitarian principles that served as a means of protecting individuals and upholding human dignity long before these concepts were universally recognized by international law. In light of this historical precedent, it is evident that Islamic principles continue to be relevant and influential in the development of modern humanitarian norms.

As noted previously, conflict in Islamic traditions is viewed as a negative phenomenon that has a negative impact on society and should, therefore, be avoided. In Islam, Muslims are instructed to take action to resolve conflicts and restore harmony, since conflict is considered harmful to divine harmony as well as communal harmony (Abu-Nimer, 1996). This is in accordance with verses in the Qur'an, such as the following:

“If the enemy is inclined towards peace, make peace with them. And put your trust in Allah. Indeed, He ‘alone’ is the All-Hearing, All-Knowing.” (Qur'an, 08:61, English translation: Khattab, 2020).

In light of this Quranic verse, it becomes more apparent what was mentioned earlier that war is considered negative phenomenon and harmful to society, and that Islam aims to maintain peace and reconciliation. Therefore, the command to lean towards peace when we are not under threat gives the full sense of our topic.

Similarly, we have another verse which also encourages reconciliation:

“...If they do so, then make peace between both ‘groups’ in all fairness and act justly. Surely Allah loves those who uphold justice.” (Qur'an, 49:9, English translation: Khattab, 2020).

In this context, reconciliation and peacebuilding efforts are highly regarded and valued in Islam. Because human dignity is more important than winning a battle. As Prophet Muhammed (pbuh) said: *“Shall I not tell you of what is better in degree than (voluntary) fasting, prayer, and charity?” They said: “Of course!” The Prophet said: “Reconciliation between people. Verily, corrupted relations between people is the razor.”* (Hadith, transmitted by Tirmidhi, hadith no. 2509; and Abu Dawud, hadith no. 4919). *

Furthermore, the "Hudaybiya Treaty", which was signed between the Prophet (pbuh) and the Meccans, represents a public "sulh" - reconciliation, whose objective was to establish a 10-year ceasefire (Weigert, 1997), although it contained unfavorable terms for the Muslim community. The Prophet (pbuh) was very keen to promote reconciliation and long-term peace as a means to attain peace rather than some advantages the Muslim community could enjoy in the short run as a result of the peace that had been achieved.

Dr. Abbas Aroua in one of his papers (Aroua, 2017) cited a prominent Muslim scholar Ibn Qayyim Al-Jawzi (1292 – 1350), that according to him, “conflict is defined as the situation where the origins are incompatible, the ways are divergent, or the goals are contradictory.” It is also important to recognize that conflict is not necessarily a reflection of the characteristics or nature of the people or groups involved. It is more likely that conflict will be viewed as a disruption or breakdown of the relationship between the parties, rather than as an indication of any inherent animosity or malice between them. In line with this understanding, the Islamic Arabic term for mediation, 'islāhu dhātil bayn,' literally translates to 'bond mending,' emphasizing that mediation serves to repair and restore relationships rather than address the moral failings of individuals involved. According to this perspective, the occurrence of conflict or breakdown in a relationship does not necessarily indicate that the parties are 'bad' or intend to harm one another, but rather that they are experiencing a temporary break that requires healing and reconciliation.

According to Qur'anic verses and prophetic hadiths on reconciliation, it becomes clear that the essential element of reconciliation is justice, regardless of the circumstances, the case, or the parties involved. Allah Almighty says:

“O believers! Stand firm for justice as witnesses for Allah even if it is against yourselves, your parents, or close relatives. Be they rich or poor, Allah is best to ensure their interests. So do not let your desires cause you to deviate from justice. If you distort the testimony or refuse to give it, then know that Allah is certainly All-Aware of what you do.” (Qur'an, 4:135, English translation: Khattab, 2020).

Similarly, the other verse instructs:

“O believers! Stand firm for Allah and bear true testimony. Do not let the hatred of a people lead you to injustice. Be just! That is closer to righteousness. And be mindful of Allah. Surely Allah is All-Aware of what you do.” (Qur'an, 5:8, English translation: Khattab, 2020).

Similarly, Prophet Muhammad (pbuh) urged his companions to be just when bond mending between people by saying: *“...To judge justly between two persons is regarded as Charity (Sadaqa)...”* (Hadith, transmitted by Bukhari, hadith no. 2989).

Accordingly, in Islamic practice one of the key principles of reconciliation is the principle of "justice," which has proven to be the basis for many successful reconciliations throughout Islamic history. In reference to the first paragraph of this paper, referring to the large number of non-governmental organizations involved in conflict resolution but unable to achieve significant results, I believe that the primary reason is the absence of a serious and just approach to war and armed conflicts around the world. Therefore, religion should not be overlooked in the mediation process to bring about a cease-fire and reconciliation between armed groups or between states at war. In Islamic history, we find many examples of reconciliation and truce that can be useful to the contemporary world.

Humanitarian action amid wars

It is Allah Almighty who is Merciful and Gracious, and it is He Almighty who loves good-doers and urges us to follow His commands. Therefore, we find multiple references to humanitarian actions and charitable activities in the Quran:

“They are those who donate in prosperity and adversity, control their anger, and pardon others. And Allah loves the good-doers.” (Qur'an, 3:134, English translation: Khattab, 2020).

Throughout this magnificent Qur'anic verse, we are reminded of the necessity of giving and forgiving, which are two significant attributes of human dignity that should be taken into account in wartime and peacetime.

Similarly, in the other verse, we are told to show charity even to our enemies (prisoners) as well:

“And give food—despite their desire for it—to the poor, the orphan, and the captive.” (Qur'an, 76:8, English translation: Khattab, 2020).

Throughout the rich history of Islam, we can find countless examples of humanitarian actions. This encompasses not only the act of giving charity but also the crucial efforts to secure food and shelter, protect non-combatants, and mend the bonds between conflicting parties. Such practices illustrate the deep-rooted commitment to compassion, justice, and peace within the Islamic tradition. An integral part of Islam's religious practice is the performance of humanitarian acts. It is evident from Quranic and prophetic texts that many humanitarian actions are described, defined, and ordered. In addition, they contain either mandatory or inciting elements, and non-Muslims are not excluded from receiving humanitarian assistance (Krafess, 2005).

Accordingly, in International Humanitarian Law, the concept of humanitarian corridors and the protection of specific categories of individuals align closely with the Islamic concept of safe passage, known as 'Aman,' which refers to 'safe conduct and quarter' under Islamic law. This concept, in many ways, encompasses the protection and certain rights entitled to non-combatants, humanitarian relief and aid workers. These rights can, in some respects, achieve the same objectives as the 'hors de combat' status, as articulated by classical jurists (Munir, 2022; Al-Dawoody, 2017).

This is not unusual in Islamic law because it is compatible with Qur'an verses, like this one:

“And if anyone from the polytheists asks for your protection ‘O Prophet’, grant it to them so they may hear the Word of Allah, then escort them to a place of safety, for they are a people who have no knowledge.” (Qur'an, 9:6, English translation: Khattab, 2020).

Lastly, I would like to share an example from the Islamic Middle Ages that highlights the ongoing humanitarian actions engagement of Muslims. This example involves Sultan Bayezid, the ruler of the Ottoman Empire, at the end of the 15th century. On March 31, 1492, in the magnificent Hall of the Ambassadors at the Alhambra, the Spanish monarchs Ferdinand and Isabella signed a commandment, called the Alhambra Decree. This decree ordered the expulsion of Jews from Spain, giving them just four months to either convert to Christianity or leave the land their families had lived for over a thousand years (Tartakoff, 2022). When Sultan Bayezid learned of the persecution of Jews by the Spanish king, he heard that the Jews were seeking refuge. In response, Sultan Bayezid issued a decree welcoming all Jews fleeing Spain or Portugal into his dominions without restriction. Ottoman officials were ordered to do everything in their power to facilitate the entry of these Iberian Jews, and strict punishments were enforced against anyone who mistreated or harmed the immigrants. As a result, thousands, even tens of thousands, of deported Jews found refuge in the Ottoman Empire (Shaw, 1991).

Conclusion

Islamic principles and practices regarding the conduct of war and humanitarian action align closely with modern International Humanitarian Law, demonstrating a deep-rooted commitment to protecting human dignity during conflict. Islamic teachings, which prioritize the protection of non-combatants, the humane treatment of prisoners, and the preservation of life and property, share

core objectives with contemporary humanitarian norms, such as those outlined in the Geneva Conventions. Notably, Islamic principles are often considered pioneers in this field, having established guidelines for the ethical conduct of war centuries before the formal codification of International Humanitarian Law.

Historical examples illustrate the practical application of these principles in Islamic history. The "Hudaybiya Treaty," signed by Prophet Muhammad (pbuh), serves as a landmark example of Islamic diplomacy and conflict resolution, emphasizing reconciliation and long-term peace over immediate military advantage. Similarly, the protection extended to Jewish refugees by Sultan Bayezid in the late 15th century reflects the Islamic commitment to humanitarian action, transcending religious and cultural differences to safeguard human rights and dignity.

These examples underscore the enduring relevance of Islamic principles in contemporary discussions on conflict resolution and humanitarian intervention. By integrating religious teachings, into modern humanitarian efforts, there is potential to enhance the effectiveness of these initiatives. Islamic law, with its comprehensive framework for justice and peace, offers valuable insights and strategies for resolving conflicts, promoting reconciliation, and protecting the dignity of all individuals involved. Contemporary literature further supports this view, highlighting the compatibility of Islamic legal traditions with modern international norms and advocating for a more inclusive approach that incorporates religious perspectives in the global humanitarian discourse.

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* Hadiths (sayings) of Prophet Muhammad (pbuh) are cited from the website: Sunnah.com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم) where are all 9 (nine) books of hadith.