

SAVING LIVES AND LIMITING THE MEANS AND METHODS OF WARFARE Five Indonesian *Tafsīr* Views

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Abstract

Protection of non-combatants and restrictions on methods of warfare are two essential aspects of jus in bello. Dawoody's and Hashmi's theory states that the classical Islamic scientific tradition discusses jus in bello much more than contemporary Islamic studies do. Contemporary studies are more preoccupied with deciphering jus ad bellum as a response to the West's stigma against Islam. This article examines the theory in the realm of Qur'anic interpretation (tafsīr). Five authoritative Indonesian tafsīrs will be the samples; Tarjumān al-Mustafīd, Marāḥ Labīd, Al-Aẓḥar, Al-Miṣbāḥ, and Firdaws al-Na'īm. The first two tafsīrs represent the classical era, the third came from the transitional era, and the last two tafsīrs originated from the contemporary era. The article examines the shifting trend through two main issues in humanitarian law: protection of non-combatants, civilians, and civilian objects, and limits on the methods and means of war.

[Perlindungan terhadap yang bukan kombatan dan pembatasan model perang merupakan aspek penting dalam prinsip hukum jus in bello. Teori Dawood dan Hashmi menyatakan bahwa dalam tradisi pengetahuan Islam klasik justru lebih banyak membahas jus in bello daripada studi Islam kontemporer. Studi kontemporer cenderung menceritakan jus ad bellum sebagai respon terhadap stigmatisasi barat pada islam. Artikel ini akan membahas lima tafsir Qur'an yaitu: Tarjumān al-Mustafīd, Marāḥ Labīd, Al-Aẓḥar, Al-Miṣbāḥ, dan Firdaws al-Na'īm. Dua yang awal mewakili masa klasik,

tafsir ketiga berasal dari masa transisi dan dua yang terakhir mewakili masa kontemporer. Artikel ini juga membahas pergeseran trend kajian melalui dua isu penting yaitu perlindungan pada non kombatan, sipil dan objek sipil dan pembatasan pada metode dan peralatan perang].

Keywords: ethics of warfare, non-combatants, methods of war, Indonesian tafsīr, Southeast Asia

A. Introduction

Dawoody's and Hashmi's research finding assert that most contemporary Muslim works have focused on *jus ad bellum*, while classical scholars focused more on studying the ethics of war (*jus in bello*). Contemporary Muslim works respond to Western subordination of studies on jihad in Islam is primarily the reason behind the phenomenon.¹ Whether this is consistent across Islamic discourse can be elucidated by examining Dawoody's and Hashmi's theory in the realm of Indonesian *tafsīr*.

In Islamic studies of *jus in bello*, *tafsīr* is infrequently employed. References from *hadith*, Islamic history (including the history of the Prophet), or *Fiqh* are much more prevalent than the use of references from *tafsīr*. For example, when Muḥammad Iqbāl al-Nadwī formulates two ethics of war based on the Qur'an in his *Akhlāqiyāt al-Ḥarb fī al-Islām*, he referred to no *tafsīr* works. All references are strictly made to historical sources (*sīrah nabawīyah*), *hadith* of the Prophet, and *āthār* of the Companions.²

The *Falsafat al-Ḥarb fī'l-Islām*, which was written by Nādiyāh Ḥusnī Ṣaqr and published by *al-Majlis al-A'la'* of Egypt is similar. The historical works remain to ultimately attract in depth study on *jus ad bellum* and *jus in bello* in her writing. She only quoted *Fī Zilāl al-Qur'ān* and *Ṣafwat al-Taḥāsīr* when explaining the universality of Islam and human values,³ and referred

¹ Ahmed Al-Dawoody, *Hukum Perang Islam*, trans. by Ayu Novika Hidayati (Jakarta: KPG & ICRC, 2011), p. 165.

² Muḥammad Iqbāl al-Nadwī, *Akhlāqiyāt al-Ḥarb fī al-Islām* (Rabat: ISESCO, 2014), pp. 77–167.

³ Nādiyāh Ḥusnī Ṣaqr, *Falsafat al-Ḥarb fī al-Islām* (Cairo: Jumhūriyyat Miṣr al-'Arabīyah, Wizārat al-Awqāf, al-Majlis al-A'la' lil-Shu'un al-Islāmīyah, 1990), p. 21.

to *Aḥkām al-Qurʾān* by al-Jaṣṣāṣ in discussing the side theme of the Companions' life stories.⁴ She did not employ three previous *tafsir* works in core discussion on the ethics of warfare. Mohammad Jafar Mahallati's dissertation is an example of minor works referring to Qurʾanic exegesis. Exploring the Muslim intellectual works in various fields, including *tafsir*, could be the reason for citing many tafsirs. It referred to several tafsir works discussing the ethics of war using a *moralist approach* and prioritized the historical and *Fiqh* references employing a *legal approach*.⁵

Several pieces of research on the ethics of warfare related to the Qurʾan also take no *tafsir* works into account as their primary references. Ammar Fadzil's article *Discourse on War: Al-Qurʾan and Geneva Convention Perspective* is one example. It quoted only the *Aḥkām al-Qurʾān*, a tafsir work of Ibn al-ʿArabī. The remaining references came from the works on *Fiqh and Sirah*.⁶ Hayward's work was no different, it quoted only the tafsir of Ibn Kathīr.⁷ This fact raises a big question: why does it happen? Does the tafsir have no significant contribution in developing *jus in bello* issues and why? Whereas *tafsir* is one of the most dynamic works in Islamic studies, it never ripens to finality (*mā naḍaj wa mā iḥtaraq*) as long as humans face their problems and read the Qurʾan.⁸ This article attempts to establish the Indonesian *mufassir* contribution in disseminating *jus in bello* from time to time by tracing its development.

According to Walid A. Saleh, the Southeast Asian tafsir studies are rather scanty than other regions. The Arab-Middle Eastern tafsirs

⁴ This can be observed, among others, when Saqar refers to the *Aḥkām al-Qurʾān* by al-Jaṣṣāṣ. He explains how the condition of the Companions' weak was strengthened with Hamzah and 'Umar ibn al-Khaṭṭāb, who embrace Islam and fight injustice. *Ibid.*, p. 14.

⁵ Mohammad Jafar Mahallati, "Ethics of War in Muslim Cultures: a Critical and Comparative Perspective", Ph.D Dissertation (Montreal, Quebec: McGill University, 2006), pp. 31–59.

⁶ Ammar Fadzil, "Discourse on War: Qurʾan and Geneva Convention Perspective", *The International Journal of the Humanities: Annual Review*, vol. 5, no. 11 (2008), pp. 115–24.

⁷ Joel Hayward, *Qurʾanic Concepts of the Ethics of Warfare: Challenging the Claims of Islamic Aggressiveness*, Occasional Papers, no. 2 (Cordoba: The Cordoba Foundation, 2011); Joel Hayward, *Warfare in the Qurʾan* (Amman: Royal Islamic Strategic Studies Centre, 2000).

⁸ Amīn al-Khūlī, *Manāḥij Tajdīd fī al-Naḥw wa al-Balāghah wa al-Tafsīr wa al-ʿAdab* (Beirut: Dār al-Maʿrifah, 1961), p. 302.

are the most studied in decades.⁹ This article fills this gap by focusing on the Indonesian *tafsīrs* as part of Southeast Asia. Compared to other parts of Southeast Asia, Indonesia has proven to be fertile ground for tafsir since the early Islamic period in the region¹⁰ and has continued to develop until now.¹¹

This article examines five popular tafsir in Indonesia: *Tarjumān al-Mustafīd* by Sheikh ‘Abd al-Ra’ūf al-Sinkilī (1619-1693),¹² *Tafsīr al-Munīr Marāḥ Labīd* written by Sheikh Nawawī al-Bantanī (1813-1879),¹³ *Tafsīr al-Azḥar* by Buya Hamka (1908-1981),¹⁴ *Tafsīr al-Miṣbāḥ* by M. Quraish

⁹ Walid A. Saleh, “Medieval Exegesis: The Golden Age of Tafsīr”, in *The Oxford Handbook of Qur’anic Studies*, ed. by Mustafa Shah and Muhammad Abdel Haleem (Oxford: Oxford University Press, 2020), p. 677.

¹⁰ Indonesia is the most active region in producing Qur’anic exegesis since the early era of Islam in Southeast Asia. Anthony Johns, “Qur’anic Exegesis in the Malay-Indonesian World: In Search of a Profile”, in *Approaches to the History of the Interpretation of the Qur’an*, ed. by Andrew Rippin (Oxford: Oxford University Press, 1988), p. 259; A.H. Johns, “The Qur’an in the Malay World: Reflections on ‘Abd al-Ra’ūf of Singkel (1615-1693)”, *Journal of Islamic Studies*, vol. 9, no. 2 (1998), p. 121.

¹¹ R. Michael Feener, “Notes Towards the History of Qur’anic Exegesis in Southeast Asia”, *Studia Islamika*, vol. 5, no. 3 (1998), pp. 47–76.

¹² *Tarjumān al-Mustafīd* is the oldest complete Qur’anic *tafsīr* written by an Indonesian in Indonesia, which is available today. It used the Malay with Jawi characters. The author was a *Qādi* of the Kingdom of Aceh, *during the reign of a Sultanah*. Johns, “The Qur’an in the Malay World”, p. 124. As the first *tafsīr*, the selection of *Tarjumān al-Mustafīd* is essential as a starting point in observing the shift of *jus in bello* in Indonesian *tafsīr*.

¹³ *Marāḥ Labīd* was written in the Arabic language by an Indonesian ‘*ulamā*’ in Makkah: Sheikh Nawawī al-Bantanī. He was known as the most famous scholar in Saudi Arabia at his time. He became one of the world’s leading references in Islamic studies. The fact that this work is written during the colonial era and vocally resisted Dutch colonialism and suggested the Indonesian people to do their efforts against imperialism should give the vital data for the research. Ansor Bahary, “Tafsīr Nusantara: Studi kritis terhadap Marāḥ Labīd Nawawī al-Bantanī”, *Ulul Albab: Jurnal Studi Islam*, vol. 16, no. 2 (2015), p. 177; Mamat S. Burhanuddin, *Hermeneutika al-Qur’an ala Pesantren: Analisis terhadap Tafsīr Marāḥ Labīd karya K.H. Nawawī Banten* (Yogyakarta: UII Press, 2006), p. 20; Ahmad Rifa’i Hasan (ed.), “Tinjauan atas ‘Tafsīr al-Munīr’ karya Imam Muhammad Nawawī Tanāra”, in *Warisan Intelektual Islam Indonesia: Telaah atas karya-karya klasik*, (Bandung: Mizan, 1987), p. 39.

¹⁴ Hamka is the acronym of Haji Abdul Malik Karim Amrullah. He was known as a prolific figure, who wrote many books. Tafsīr al-Azhar was one of 118 works written by Hamka. Tafsīr Al-Azhar was written in detention when Hamka became a political

Shihab (1944-present),¹⁵ and *Tafsir Firdaws al-Na'īm* written by Kiai Muḥammad Tayfūr 'Alī Wafā (1964-present).¹⁶

The article examines selected verses from the five *surahs*: *First*, Qur'an, 2: 190-194, which stated the first instruction and contained basic rules for Muslims to wage war.¹⁷ *Second*, Qur'an, 9: 4-8. The fifth verse of *surah al-Tawbah*, the so-called sword verse, is among these verses.¹⁸ The instructions and prohibitions that follow the sword verse are excellent parameter references in formulating the rules of war of five Indonesian *tafsīrs*. *Third*, Qur'an, 16: 126 relates to the rule on retaliation and prohibition of mutilation. *Fourth*, Qur'an, 47: 4 represents rules of war after it ends, especially concerning the treatment of prisoners of war. *Fifth*, Qur'an, 59: 5 concerns the protection and restrictions on attacks against property. This article explores the elements of *jus in bello* from the five parts of verses in five mentioned *tafsīrs* in the light of two main subjects: the protection of non-combatants and civilian objects and limitations on the means and methods of war.

prisoner during the presidency of Soekarno. H. Rusydi Hamka, *Pribadi dan Martabat Buya Hamka* (Jakarta: Noura, 2017), p. 379; Floriberta Aning S, *100 Tokoh yang Mengubah Indonesia* (Yogyakarta: Penerbit Narasi, 2005), pp. 79–80.

¹⁵ Quraish Shihab is a prominent *mufassir* in Indonesia. His works have been synonymous with contextualizing the verses of the Qur'an with the life of Indonesian society and popularizing harmonious Islam. Munirul Ikhwan, "An Indonesian Initiative to Make the Qur'an Down-to-Earth: Muhammad Quraish Shihab and His School of Exegesis", Ph.D Dissertation (Berlin: Freie Universitat Berlin, 2015), pp. 7–14.

¹⁶ Tayfūr 'Alī Wafā was a *Kiai* at the *pesantren* Assadad, son of *Kiai* 'Alī Wafā who was mentioned by Martin van Bruinessen as the main leader of the *tarekat* in the eastern Madura. Martin van Bruinessen, *Kitab Kuning, Pesantren dan Tarekat* (Yogyakarta: Gading Publishing, 2012), p. 439; Tayfūr also known as a prominent scholar. He has many works in Islamic studies, among which was *tafsīr*. The majority of his works were written in Arabic. This is inseparable from Tayfūr's educational background as he grew up in Makkah. Moh Faizi, "KH. Thaifur 'Alī Wafā Muharrar", in *Intelektualisme Pesantren: Potret tokoh dan cakrawala pemikiran di era perkembangan pesantren*, ed. by Mastuki H. S and M. Ishom El-Saha (Jakarta: Diva Pustaka, 2003), p. 325.

¹⁷ Ismā'īl ibn 'Umar Ibn Kathīr, *Tafsīr al-Qur'ān al-'Aẓīm*, vol. 1 (Cairo: Maktabat Miṣr, 2010), p. 321.

¹⁸ Muqātil ibn Sulaymān, *Tafsīr al-Qur'ān al-'Aẓīm* (Cairo: Al-Hay'ah al-Miṣriyyah al-'Āmmah li al-Kitāb, 1979), p. 386; Fakhr al-Dīn al-Rāzī, *Mafātīḥ Al-Ghayb* (Beirut: Dār Al-Fikr, 2005), p. 113; Muḥammad Aḥmad al-Qurṭubī, *Al-Jāmi' li Aḥkām Al-Qur'ān* (Cairo: Al-Maktabah al-'Aṣriyyah, 2014), p. 347.

B. Protection of Non-Combatants and Civilian Objects in Five *Tafsir*

Protecting non-combatants, civilians, and civilian objects is an essential issue of warfare ethics in Islam. The following description explains how Indonesian five *tafsirs* accommodate the protection of those three elements in their Quranic commentaries.

According to Article 43 and 44 of Additional Protocol I, Article 4A Geneva Convention III, and the glossary of ICRC, combatant describes those persons with a right to directly participate in hostilities between states.¹⁹ Non-combatant is the opposite of combatant. The definition explains that non-combatants are not only those who serves in the military service but who does not actively involve in war, such as health workers, 'religious counselors' (chaplains), clerics, and administrative staff, but also those who are entirely unrelated to military service among the civilian population (civilians).²⁰ The Fourth Geneva Convention states that combatants are military members at war, while non-combatants are military members who do not involve in warfare. They can play a role as medical personnel, religious personnel, or chaplains.²¹ However, in its development, non-combatants are interpreted more broadly. Non-combatants include people outside a military force at war (civilians), and soldiers who do not have a combat function or are not involved in the war directly.²² In this paper, non-combatants are defined as the last definition: including military members who are not actively involved in war and civilians.

¹⁹ ICRC, "Combatants", *How does law protect in war?*, <https://casebook.icrc.org/glossary/combatants>, accessed 5 Mar 2022.

²⁰ Merriam-Webster, "noncombatant", *Merriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/noncombatant>, accessed 12 Oct 2021.

²¹ United Nations, *IV Geneva Convention Relative to The Protection of Civilian Persons in Time of War of 12 August 1949*, p. 156, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf, accessed 17 Oct 2021.

²² Frank Aragbonfoh Abumere, "The Problem with the Individualist Approach to the Principle of the Immunity of Non-Combatants", *South African Journal of Philosophy*, vol. 39, no. 3 (2020), p. 275.

1. *Non-combatant Military Personnel*

‘Military Personnel’ or ‘Members of the Armed Forces’ who are not taking direct part in hostilities due to their particular duties, such as administrative staff, medical personnel, and chaplains, have combatant immunity from prosecution against the lawful conducts of war. The Qur’an includes them in the group of people who has the right to be unkilld. The verse “*Fight in the way of Allah those who fight you*” (Qur’an, 2: 190) emphasizes that only combatants who are involved in war activities deserve to be fought. Non-combatants military personnel, which are not involved in a war, are excluded. Muḥammad Nawawī ibn ‘Umar al-Bantānī and Tayfūr ibn ‘Alī Wafā emphasized on fighting infidel or non-believer combatants in their *tafsīr*. Meanwhile, the other three *tafsīr*s do not provide specific limitations, even though the targets are implicitly infidel combatants. In his *tafsīr*, ‘Abd al-Ra’ūf al-Singkīlī wrote: “exalt the religion of Allah,” which indicated the war as the “religious war.”²³ Likewise, in the elaboration of the verse, Shihab emphasizes warriors who plan and take steps to fight Muslims. The sentence “to fight against Muslims” also indicates the religious war.²⁴ Hamka is the only one who does not directly refer to infidel combatants either implicitly or explicitly.²⁵

Both Hamka and Shihab explicitly emphasize the prohibition of fighting combatants who have surrendered. According to them, attacking people who have surrendered is a transgression prohibited by Islam.²⁶ The end of Qur’an, 2: 190: “Allah does not like transgressors” emphasizes exactly the same thing.

Furthermore, the Qur’an prohibits Muslims from breaking promises to polytheists who do not violate a non-aggression pact and do not join enemy forces (Qur’an, 9:4). The Qur’an also forbids attacking those who seek protection (Qur’an, 9:6). The Qur’an guarantees the safety of combatants; who do take allegiance and do not conspire

²³ Abd al-Ra’ūf ibn ‘Alī al-Fanṣūrī Singkel, *Tarjumān al-Mustafīd*, vol. 1 (Semarang: Raja Publishing, 2014), p. 31.

²⁴ M. Quraish Shihab, *Tafsīr Al-Misbāb: Pesan, Kesan, dan Keserasian Al-Qur’an*, vol. 1 (Jakarta: Lentera Hati, 2011), pp. 506–7.

²⁵ Hamka, *Tafsīr Al-Azhar*, vol. 1 (Singapore: Pustaka Nasional Pte Ltd, 1990), pp. 445–6.

²⁶ Shihab, *Tafsīr al-Misbāb*, 1: 507; Hamka, *Tafsīr Al-Azhar*, 1: 445.

against Muslims. Al-Singkilī recommends that Muslims do not reduce the conditions of loyalty or break a non-aggression pact even with polytheists as long as they are loyal and do not conspire with the *kuffār*. Likewise, “the polytheists who ask for prosperity for you, instead of killing them, give them prosperity...”²⁷ al-Singkilī includes the people who ask for protection as guaranteed non-combatant immunities.

In line with Al-Singkilī, Nawawī al-Bantanī explained that Muslims must continuously maintain peace with people who do not violate the agreement and do not ally with the enemy. According to al-Bantanī, merely not violating an agreement is an indicator of being pious (*taqwā*), even if the agreement is with polytheists (*inna murā‘ah ḥuqūq al-‘abd min bāb al-taqwā....wa in kāna al-mu‘ābid mushrikan*).²⁸ Religious difference are not an excuse for breaking the covenant in this context. Abiding by a non-aggression pact is part of piety, and “Allah loves pious people.”

In addition, like al-Singkilī, al-Bantanī also includes combatants who ask for protection as non-combatants whose rights should be respected. Nevertheless, al-Bantanī explained that when somebody asks for such protection is handed over to his/her community to guarantee his/her lives soul and properties they may be potentially be fought and killed later in battle (*thumma ba‘da dhālik yajūzu qitālūhum wa qatluhum*).²⁹ Like al-Bantanī, Tayfūr ‘Alī Wafā has a similar conclusion and view with a slightly different sentence. ‘Alī Wafā added: “If he does not believe and wants to leave, take him to his hometown (*dār qawmihī*), a place where their safety is guaranteed. After that, they may be engaged without any reason and treason (*min ghayr ‘udhr wa lā kbhīyānah*).³⁰

As reflected in *Tarjumān al-Mustafīd*, *Marāḥ Labīd* and *Firdaws al-Na‘im*, *Al-Azhar* also describes the position of combatants who are not involved in a war. Their non-combatant immunity automatically revokes

²⁷ Singkel, *Tarjumān al-Mustafīd*, 1: 188.

²⁸ Nawawī al-Bantanī, *Marāḥ Labīd li Kashf Ma‘nā al-Qur‘ān al-Majīd*, vol. 1 (Beirut: Dār Al-Fikr, 2016), pp. 330–1.

²⁹ *Ibid.*, 1: 331.

³⁰ Muḥammad Tayfūr ‘Alī Wafā, *Firdaws al-Na‘im bi Tawḍīḥ Ma‘ānī Āyāt al-Qur‘ān al-Karīm*, vol. 2 (Sumenep: Pesantren Assadad), p. 485.

if they violate the peace treaty and ally with the enemy.³¹ Furthermore, *Tafsir Al-Azhar* emphasizes that the word allegiance is part of the piety that Allah loves. The context shows us that word *taqwa* (piety), in this *tafsir* has two meanings: *first*, keeping promises with fellow human beings, and *second*, maintaining devotion to God by keeping promises even with enemies.³² Every Muslim must be vigilant in keeping a non-aggression pact with another. The unwavering commitment to an agreement and alertness to the potential of a betrayal simultaneously is part of the piety.³³ *Tafsir Al-Mishbāh* also explains precisely the same point. *Al-Mishbāh* elucidates that Al-Qur'an commands protecting adherents of other religions as long as they do not interfere. The killing, capturing, proscription only addresses the active combatants who are clearly hostile the Muslims.³⁴

2. *Detained Enemy Soldiers*

Combatants who have fallen into the hands of the enemy (captive/captured) are prisoners of war and are protected as such. The status of a prisoners of war under IHL also expands the captive civilians who accompany the armed forces provided they are authorized by the armed force they accompany, such as the war correspondents. Qur'an, 8: 67 and Qur'an, 47: 4 are two of Quranic verses discussing the topic. In Qur'an, 8: 67, Allah rebukes the suggestion to detain the prisoners of war during the Badr war: "*It is not for a prophet to have captives [of war] until he inflicts a*

³¹ Hamka, *Tafsir Al-Azhar*, vol. 4 (Singapore: Pustaka Nasional Pte Ltd, 1990), p. 2851.

³² *Ibid.*,

³³ When explaining the interpretation of verse 7 of Surah al-Tawbah, Hamka explains, "This verse explains once again about piety. Although making a promise with a person who is still a polytheist, the promise must be upheld so that the breach of the promise does not arise from the believer. Because such a thing is a sign that the relationship with God is not maintained, while the meaning of piety is to maintain a good relationship. The second meaning of piety is also found in this verse, namely caution and vigilance. Because piety, which means maintaining, does not only mean to maintain a relationship with God, but also to take care of oneself and to be prepared of not being fooled and deceived." See Hamka, *Tafsir Al-Azhar*, 4: 2857, 2863.

³⁴ Hamka, *Tafsir Al-Azhar*, vol. 5 (Singapore: Pustaka Nasional Pte Ltd, 1990), pp. 22–3.

*massacre [upon Allah's enemies] in the land.*³⁵ The verse avoids the Prophet detaining enemy soldiers and exchanging them for ransom before the victory because: “Some Muslims desire the commodities of this world, but Allah desires [for you] the Hereafter. And Allah is Exalted in Might and Wise” (Qur’an, 8: 67).³⁶ Exchanging captives for ransom indicates a desire for worldly possessions. Nevertheless, the Prophet’s decision was later forgiven by Allah as explained at the end of the verse: “If not for a decree from Allah that preceded, you would have been touched for what you took by a great punishment” (Qur’an, 8: 68).

Upon closer examination, the warning in verse 68 of Surah al-Anfāl is different from the Surah Muḥammad verse 4, in terms of context. Allah said in Qur’an, 47: 4: “So when you meet those who disbelieve [in battle], strike [their] necks until, when you have inflicted slaughter upon them, then secure their bonds, and either [confer] favor afterwards or ransom [them] until the war lays down its burdens.” As explained in *Tarjumān al-Mustafīd*, this verse indicates a standing order to engage infidel combatants until the Muslim force completely defeats the enemy. When these infidel combatants are defeated, al-Singkīlī said:

“Until when you kill a lot of them, then you should stop killing them. So, you take them prisoner, and you strongly tie them. Sometimes you release them without any compensation, and sometimes you take from them a strict fine or all the Muslims held captive by them until they are sent by those at war all objections regarding weapons and other things, such as converting to Islam all those who do not believe or they must be

³⁵ Muḥammad Khudārī, *Nūr al-Yaqīn fī Sirat Sayyid al-Mursalīn* (Syria: Dār al-Fayḥā’ li al-Nashr wa al-Tawzī, 2020), p. 112.

³⁶ It is said that when the Muslim army arrived in Madinah after the battle of Badr, the Prophet SAW consulted with his companions about what to do with the prisoners. Considering that all the prisoners were people who had denied, fought, and expelled the Prophet, Umar suggested that those who had family ties with the prisoners be responsible for each of them. Umar’s only proposal was to behead all the prisoners. This view was supported by Sa’ad ibn Mu’adh and ‘Abdullah ibn Rawāḥah. Meanwhile, Abu Bakr had a different opinion. According to him, the prisoners were still the relatives and the people of Rasulullah SAW. It would be better to just let the prisoners live and to take their ransoms. The ransom will serve as the strength to fight enemy. Rasulullah opted for the choice offered by Abu Bakr a.s. *Ibid.*, pp. 107–8.

faithful, and this is the end for them of being killed and taken captive.”³⁷

The above quote of *Tarjumān al-Mustafīd* indicates that killing infidel combatants until their troops are paralyzed must be carried out on the battlefield. When victory is in hand, then the different rules should apply. Al-Sinkilī proposes five options: release without ransom, release with the ransom, prisoners exchange, conversion into Islam, and pledge of allegiance to Islamic rule.

In a different way, *Marāḥ Labid* explains that if Muslim soldiers meet infidel combatants on the day of Badr (*fī al-muḥārabah yawm badr*), then behead them or kill them by any means (*bi ayyi tariq amkanakum*) until you can incapacitate them. Only then, take them as a prisoner. After that, there are two options offered to the prisoners: release without ransom or release with ransom (either the ransom is in the form of property or prisoners exchange), until the war ultimately ends.³⁸ In this context, Islam guarantees security for prisoners of war.

Meanwhile, Hamka explains that Qur’an, 47: 4 shows how to engage the enemy if they fight back. On the other hand, if they surrender, we may capture them as prisoners of war. “A captor has a right to release them, as a form of grace, or to ask for a ransom.”³⁹ Although the text of the verse only explains two options in dealing with prisoners of war: releasing prisoners without conditions and with a ransom (either they are asked to teach, write, and read). Hamka adds that prisoner may be executed in particular cases. He gives an example of how Rasulullah SAW also chose to execute prisoners in extraordinary cases and for compelling reasons. For example, in the case of Battle of Badr, the Prophet executed al-Naḍr ibn al-Ḥārith and ‘Uqbah ibn Abū Mu’ait. Likewise, after the Battle of Khandaq, the Prophet executed about 800 prisoners of war from the Jewish Banu Qurayza.⁴⁰ Hamka implores them to the arrest

³⁷ Abd al-Ra’ūf ibn ‘Alī al-Fanṣūrī Singkel, *Tarjumān al-Mustafīd*, vol. 2 (Semarang: Raja Publishing, 2014), p. 508.

³⁸ Merriam-Webster, ‘Prisoner’, *Merriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/prisoner>, accessed 15 Jun 2021.

³⁹ Hamka, *Tafsir Al-Azhar*, vol. 9 (Singapore: Pustaka Nasional Pte Ltd, 1990), p. 6690.

⁴⁰ “All these were done by the Prophet because they violated the rules of war and betrayed their promises and allied with the enemy.” *Ibid.*, 9: 6690–1.

of “war criminals” in the context of modern warfare.⁴¹ They were not ordinary ex-combatants but the type of combatants guilty of appalling behavior.

Shihab’s comment were substantially different from Hamka’s. According to him, the Muslim force can imprison every live enemy combatant even after the war ends. There are three options for them as prisoners. The Quran explicitly mentions two of the three: “release them without ransom or with it,” and the scholars offer the third: executing them. Prisoner redemption is applied by conveying some properties, prisoners exchange, etc. Although Shihab quotes the opinion of some scholars who allow war prisoners execution, Shihab emphasizes that he prefers the scholars who forbid the execution according to the explicit text of the Qur’an. However, the text of the verse only explains the general treatment of prisoners of war.⁴²

Unlike Shihab, Hamka, and al-Singkilī, a contemporary Indonesian *mufasssīr*, Tayfūr ‘Ali Wafā, has a totally different perspective on infidel combatants. He distinguished the treatment of male and female prisoners. He offered four options for a male prisoner: execution (*al-qatl*), releasing without ransom (*al-mann*), release with ransom (*al-fidā’*), and slavery (*al-istirqāq*). In comparison, female prisoners and children have three options: release without ransom (*al-mann*), release with ransom (*al-fidā’*), and slavery (*al-istirqāq*). ‘Ali Wafā corroborates his views with details provided by Imam Shafi’i, the founder of the Shafi’i school. He also emphasizes that the Qur’an, 9 abrogated all of the easy treatment for the enemies after the Battle of Badr. In addition, he also explains that part of the Qur’anic verse *ḥattā taḍā’u al-harb awḥārāhā* means “Demolish the disbelievers by fighting and holding them captive until all the followers of other religions become Muslims, and the religion (of Islam) is only for God. After that, there would be no more jihad and the war when Isa ibn Maryam descends” (*athkḥinū al-mushrikīna bi al-qatl wa al-asr ḥatta yadkḥula*

⁴¹ *Ibid.*, 9: 6691.

⁴² The view of scholars who allow the killing of captives were based on the experience of the Prophet Muhammad SAW, who killed ‘Uqbah ibn Abi Mu’ih and an-Naḍar ibn al-Ḥārith during the battle of Badr. However, according to Shihab, these cases were special ones, in which the prisoners were killed not on the basis of their position as prisoners, but as traitors or spies. See M. Quraish Shihab, *Tafsīr Al-Mishbāh: Pesan, Kesan, dan Keserasian Al-Qur’an*, vol. 12 (Jakarta: Lentera Hati, 2011), p. 445.

*ahl al-milal kullihā fi al-Islām wa yakūn al-dīn kullihā lillāh falā yakūnu ba‘dabū jibād wa lā qitāl wa dhālik ‘ind nuzūl Isā ibn Maryam a.s).*⁴³ This interpretation emphasizes that in the end, Islam is the only religion approved by Allah, and a world without war only occurs when Isa ibn Maryam descends to earth. It looks like *Firdaws al-Na‘īm* upholds the Mahdiist thought. Such Mahdiist thought implies an illusion “as long as Isa does not descend yet the Muslim army is still allowed to impose four options for male prisoners and three options for female prisoners and children.”

3. *Civilians, the Elderly, Women, and Children*

The third category of non-combatants is civilians, the elderly, women, and children. Islam never targeted the civilian population in the wartime. Although five *tafsirs* do not explicitly mention this third non-combatant group, they all agreed that there is no justification for engaging civilians. The Qur’an, 2: 190 indicates the targets in war are those who fight. The targets in war are the active combatants involved in a war, not the civilians.

Al-Azhar explains that the war does not include women, children, and the elderly due to their non-combatant immunity. Hamka states: “But God gives a clear warning here for not overstepping the limits. They are: *first*, do not start the war. *Second*, do not kill the elderly, women, and children in war.”⁴⁴

Hamka also corroborates his interpretation with the explanation of Ibn ‘Abbās quoted by Ibn Jarīr al-Ṭabarī: “Do not kill women, children and the elderly (*al-shaykh al-kabīr*).”⁴⁵ Hamka’s explanation relies upon the term *wa lā ta‘adū*, do not force the limits. Those who kill women, the elderly, and children in war are considered transgressors and certainly disliked by Allah SWT.

Shihab also mentions women, children, and the elderly specifically when interpreting verse 190 of Surah al-Baqarah. Such as mentioned above, Hamka concludes the prohibition on killing women, the elderly,

⁴³ Muḥammad Ṭayfūr ‘Alī Wafā, *Firdaws al-Na‘īm bi Tawḍīḥ Ma‘ānī Āyāt al-Qur’an al-Karīm*, vol. 6 (Sumenep: Pesantren Assadad), pp. 20–1.

⁴⁴ Hamka, *Tafsir Al-Azhar*, 1: 445.

⁴⁵ Abū Ja‘far Muḥammad ibn Jarīr al-Ṭabarī, *Jāmi‘ al-Bayān fī Tafsīr al-Qur’an*, vol. 3 (Giza: Dār al-Hijr, 2001), p. 291.

and children derived from the verse *wa lā ta‘adū*, Shihab depicts it from the consequences of *alladhīna yuqātilūnakum*, people who fight you. He said:

“The term *alladhīna yuqātilūnakum* means that the local custom determines the attack addressee in war. So, if in a certain period or particular communities, women, the elderly, or children do not wage war, they should not be fought ...”⁴⁶

Such interpretation, however, the consequence that if women, the elderly, and children in some period participate in war, they lose their non-combatant immunity. They are not ordinary civilians anymore. The prohibition of killing women, children, and the elderly goes hand in hand with their role in the war. It does not apply absolutely and permanently. It follows the principle of “*Al-hukm yadūr ma‘a al-‘illah wujūdan wa ‘adaman*, a judgment with reason.

4. *Protecting Civilian Objects*

Civilian objects are defined in the negative –any object that are not military objectives are civilian objects. Military objectives are objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.⁴⁷ According to the First Additional Protocol the place of worship is one of the protected civilian objects.⁴⁸

All of *Tarjumān al-Mustafīd*, *Marāb Labīd*, *Al-Azhar*, *Al-Misbbāb*, and *Firdaws al-Na‘īm* agreed to protect the house of worship even during a

⁴⁶ Shihab, *Tafsīr al-Misbbāb*, 1: 507.

⁴⁷ ‘Article 52 - General protection of civilian objects Additional Protocol (I) to the Geneva Conventions of 12 August 1949’, *Treaties, States parties, and Commentaries* (8 Jun 1977), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=F08A9BC78AE360B3C12563CD0051DCD4>, accessed 5 Mar 2022.

⁴⁸ ‘Article 53 - Protection of cultural objects and of places of worship Additional Protocol (I) to the Geneva Conventions of 12 August 1949’, *Treaties, States parties, and Commentaries* (8 Jun 1977), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=D76C3391F1A412C5C12563CD0051DCEB>, accessed 4 Mar 2022.

wartime.⁴⁹ The Qur'an, 2: 191 said: "And do not fight them at *al-Masjid al-Haram* until they fight you there." The verse also indicates to protect the house of worship and respect the sanctity of the Holy Mosque. Hamka explained that all Arab nations pledged to collectively maintain the sanctity of Holy Mosque since the Prophet Ibrāhīm era.⁵⁰

Al-Azhar and *Al-Mishbāh* also expounded on the protected civilian objects during a war. Further, Hamka included all cultural heritage and sacred places as protected civilian objects. The history of the Prophet's umrah shows us the same. The Prophet forbade Muslims from destroying the statues around the Ka'ba and between the Safa and Marwa hills.⁵¹ Hamka also includes human civilization products such as books or other intellectual works as the protected object during a war. Hamka's opinion seems clear from his critics toward Tartar and Spanish soldiers: "The Tatar and Spanish were very savage and acted beyond limits by killing everyone they met along the way, both male civilians and female, children, the elderly, setting fire to civilian settlements, looting their assets, and even burning down the products of civilization, such as books."⁵²

On the other hand, Shihab explains in detail several civilian objects that should be spared and respected during the war, in addition to places of worship and other sacred objects. Civilian objects also include all facilities not employed as weapons of war as well as, hospitals, civilian settlements, trees, etc. Shihab explains that it is prohibited to destroy or damage those objects due to the prohibition on exceeding limits in war as stated in Surah Al-Baqarah verse 190.⁵³

However, in Surah Al-Hashr verse 5, Allah SWT justifies the toppling of trees belonging to Jewish enemies. At the time the trees were a political symbol and an incitement to war. This verse, Shihab said, was intended to explain that the instruction to cut down particular date palms

⁴⁹ Singkel, *Tarjumān al-Mustafid*, 1: 31; al-Bantani, *Marāḥ Labīd li Kashf Ma'nā al-Qur'an al-Majid*, 1: 50; Hamka, *Tafsir Al-Azhar*, 1: 446; Shihab, *Tafsir al-Mishbāh*, 1: 508; Muḥammad Ṭayfūr 'Alī Wafā, *Firdaws al-Na'im bi Tanḍīḥ Ma'āni Ayāt al-Qur'an al-Karim*, vol. 1 (Sumenep: Pesantren Assadad), p. 188.

⁵⁰ Hamka, *Tafsir Al-Azhar*, 1: 446.

⁵¹ *Ibid.*, 1: 448.

⁵² Hamka, *Tafsir Al-Azhar*, 4: 507.

⁵³ Shihab, *Tafsir al-Mishbāh*, 1: 507.

during the siege of Bani al-Naḍīr is part of Allah's instruction, not a Prophet's personal decision. Another essential point is that the Prophet did not burn any single residents' settlements during the siege. The Prophet only cut two or six date palms down and did not destroy civilian areas prohibited under ethics of war.⁵⁴ It constitutionally conforms to the Additional Protocol I of 1977 Article 54 paragraph 4.⁵⁵

C. Limitations on Means and Methods Used in War

Another important aspect of the ethics of war are the limitation on means and methods of warfare. In Chapter III, Article 35 of the First Additional Protocol, it is stated that the means and methods of warfare are not unlimited.⁵⁶ It means that not all the means and methods are permitted in warfare. This section discusses the limitation on means and methods of war in the five Indonesian tafsir.

The Qur'an explicitly mentions the limitation on the means and methods of war with the warning of "*wa lā ta'tadū*," do not overstep the limits. These five *tafsir* also explain these limitations.⁵⁷ Even so, each tafsir develops some different details regarding the forms of these limits.

1. *Minimizing Victims*

For this section, the victims referred to troops who participated in combat, not civilians and non-combatants. Wars could not entirely avoid the loss of human lives. Therefore, war needs strict rules to regulate attacks launched by each group to minimize casualties. Tafsir *Al-Mishbāh*

⁵⁴ M. Quraish Shihab, *Tafsir Al-Mishbāh: Pesan, Kesan, dan Keserasian Al-Qur'an*, vol. 13 (Jakarta: Lentera Hati, 2011), pp. 527–8.

⁵⁵ Dirjen Administrasi Hukum Umum, *Protokol Tambahan Pada Konvensi-Konvensi Jenewa 12 Agustus 1949 Dan Yang Berhubungan Dengan Perlindungan Korban-Korban Pertikaian Bersenjata Internasional (protokol) Dan Bukan Internasional (Protokol II)* (Jakarta: Direktorat Jenderal Administrasi Hukum Umum Departemen Kehakiman Dan Hak Asasi Manusia RI, 2003).

⁵⁶ *Ibid.*, p. 48.

⁵⁷ Singkel, *Tarjumān al-Mustafīd*, 1: 31; al-Bantanī, *Marāḥ Labīd li Kashf Ma'nā al-Qur'an al-Majīd*, 1: 51; Hamka, *Tafsir Al-Azhar*, 1: 445; Shihab, *Tafsir al-Mishbāh*, 1: 507; Wafā, *Firdaws al-Na'im bi Tawḍīḥ Ma'ānī Ayāt al-Qur'an al-Karīm*, 1: 187.

explicitly mentions that the Prophet's war only took a few casualties.⁵⁸ In contrast to *Al-Mishbāh*, which specifically states the need to minimize victims, the four other *tafsirs* do not hold the same. *Tarjumān al-Mustafid* only states the limits of warfare by emphasizing the prohibition against innocent victims⁵⁹ and did not explicitly mention minimizing all casualties. It shows that al-Sinkili paid more attention to non-combatants than combatants. Naturally, innocent victims of war are civilians who do not carry weapons or do not participate in the warfare.

Tafsir Al-Azhar, at a glance, indicates he was not concerned about the magnitude of casualties on the enemy side: "Be firm when a war happens, do not be half-hearted; keep attacking! Kill, stab, rage, in short, do everything in war, do it. Have no pity!"⁶⁰ On the contrary, in another part of his *tafsir*, Hamka clearly limits the attacks to those directly involved in war⁶¹ and condemns the genocide upon the losing side, resulting in an uncontrollable number of casualties.⁶²

Tafsir Marāḥ Labīd also mentions "*saqtulūhum bi ayyi tariq amkanakum*", kill them in whatever way and method you can.⁶³ However, on the other hand, al-Bantani still insists that Allah does not like people who transgress moral precepts.⁶⁴

Among the five *tafsirs*, *Firdaws al-Na'im* seems unique by mentioning that Qur'an, 2: 190 indeed prohibits transgressing, but another verse from Surah al-Tawbah abrogates the verse.⁶⁵ It proves that *Firdaws al-Na'im* is the only *tafsir* among the five *tafsirs*, which does not recommend minimizing casualties during wars.

⁵⁸ M. Quraish Shihab, *Tafsir Al-Mishbāh: Pesan, Kesan, dan Keserasian Al-Qur'an*, vol. 5 (Jakarta: Lentera Hati, 2011), p. 15.

⁵⁹ "... and kill ... everyone who kills you and do not go through the *had* on those people". Singkel, *Tarjumān al-Mustafid*, 1: 31.

⁶⁰ Hamka, *Tafsir Al-Azhar*, 1: 446.

⁶¹ *Ibid.*, 1: 445.

⁶² Hamka, *Tafsir Al-Azhar*, 4: 2867.

⁶³ Nawawī al-Bantani, *Marāḥ Labīd li Kashf Ma'nā al-Qur'ān al-Majīd*, vol. 2 (Beirut: Dār Al-Fikr, 2016), p. 334.

⁶⁴ al-Bantani, *Marāḥ Labīd li Kashf Ma'nā al-Qur'ān al-Majīd*, 1: 50.

⁶⁵ Wafā, *Firdaws al-Na'im bi Tawḍīḥ Ma'ānī Āyāt al-Qur'ān al-Karīm*, 1: 187.

2. *Weapons of Mass Destruction*

In general, international humanitarian law prohibits the use of weapons of mass destruction. Weapons of mass destruction, include nuclear weapons, chemical weapons, biological weapons,⁶⁶ autonomous weapons, inhuman weapons such as bullets that expand or flatten when entering the target's body.⁶⁷ Regarding the actual used in war, the five *tafsirs* mention no specific types of weapons that may or may not be used in war. The five *tafsirs* more focus on discussing the broader terms: the use of similar methods in fighting based on the verse "... *faman i'tadā 'alaikum fa'tadū 'alaih bi mithl mā 'adā 'alaikum*", ... so whoever has assaulted you, then assault him in the same way that he has assaulted you⁶⁸ and the verse "*wa in 'aqabtum fa 'aqibū bi mitsl mā 'uqibtum bih...*", if you retaliate, then let it be equivalent to what you have suffered.⁶⁹

Tarjumān al-Mustafid interprets the verse as: "anyone violates the rules that have been set by fighting you, then you may exceed the limitations that have been set in the same way he has violated the rules to attack you."⁷⁰ The standard of weaponry used is very general, "equivalent to" the one used by the enemy. In a similar tone, *Tafsir Marāb Labid* emphasizes that the method of war must be equal, *bi mithl*.⁷¹ On the same side, *Tafsir Al-Azhar* used the term "a balanced way",⁷² and *Tafsir Firdaws al-Na'im* calls it "in similar and identical means/method" *bi mushākalah*.⁷³ *Al-Mishbāh* develops his *tafsir* by including the word *ālāt* (means) explicitly, which, in the context of warfare, can be interpreted as a weapon. Shihab quotes Imam Shafī' who asserts:

"...the need for complete equality between the aggression they carry out

⁶⁶ Susan B. Martin, 'Weapons of Mass Destruction A Brief Overview', in *Ethics and Weapons of Mass Destruction: Religious and Secular Perspectives*, ed. by Sohail H. Hashmi and Steven P. Lee (Cambridge: Cambridge University Press, 2004), p. 16.

⁶⁷ 'Weapons', *icrc.org* (30 Nov 2011), <https://www.icrc.org/en/document/weapons>, accessed 18 Jun 2021.

⁶⁸ Lajnah Pentashihan Mushaf Al-Qur'an, *Terjemah Al-Qur'an Tahun 2019* (Jakarta: Kementerian AGAMA RI, 2019), p. 20.

⁶⁹ Qur'an, 16: 126. *Ibid.*, p. 16.

⁷⁰ Singkel, *Tarjumān al-Mustafid*, 1: 31.

⁷¹ al-Bantānī, *Marāb Labid li Kashf Ma'nā al-Qur'an al-Majid*, 1: 51.

⁷² Hamka, *Tafsir Al-Azhar*, 1: 450.

⁷³ Wafā, *Firdaws al-Na'im bi Tawdīh Ma'ānī Āyāt al-Qur'an al-Karim*, 1: 190.

and the retaliation they deserve ... the method of retaliation in murder, as well as the *ālāt* (means), must be completed the same as the methods and means of murder committed by the convict.”⁷⁴

The quote shows that *Al-Mishbāḥ* permits the use of any weapons on condition that the weapon is used first by the enemy and on an additional condition, which is only for emergencies:

“It should be noted that the Prophet, during the siege, did not burn down Jewish settlement. He only cut down date palms, and it was only two or six trees in other narrations ... In principle, destruction and burning must not be done unless it is indispensable.”⁷⁵

The above explanation shows that *Al-Mishbāḥ*, on the one hand, expresses permission to use any weapons, including weapons of mass destruction, as long as the enemy has already used them. On the other hand, it prohibits weapons of mass destruction, except in emergencies. One should keep in mind that the weapons used in the Prophet era were absolutely different from the weapons used in wars nowadays. In the Prophet time, human beings were only familiar with spears, swords, arrows,⁷⁶ trebuchets, or tree cutters,⁷⁷ which were less likely to cause mass destruction. It is very likely that Tafsir *Al-Azhar* only thought about such weapons when interpreting Surah Al-Baqarah. It puts aside weapons that can cause extensive destruction, thus permitting any weapons as long as it is equivalent or in emergencies.

The five *tafsirs* can essentially be divided into two groups concerning their views on weapons of mass destruction: *first*, permissive of any weapons, including weapons of mass destruction, on the condition that the enemy has used them before. *Tarjumān al-Mustafīd*, *Marāḥ Labīd*, *Al-Azhar*, and *Firdaws al-Na‘īm* seated in the group. *Second*, weapons that use causes widespread impact in ordinary wartime conditions but allows them an emergencies. *Al-Mishbāḥ* is the only tafsir that upholds the idea among the five tafsirs examined in this article. It is essential to highlight here that the two previous groups remain supportive of deploying

⁷⁴ Shihab, *Tafsir al-Mishbāḥ*, 1: 511

⁷⁵ Shihab, *Tafsir al-Mishbāḥ*, 13: 528.

⁷⁶ Al-Dawoody, *Hukum Perang Islam*, p. 187.

⁷⁷ Muhammad Khayr Haykal, *Al-Jihād wa al-Qitāl fī al-Siyāsah al-Shar‘īyah* (Cairo: Dār al-Bayāriq, 1996), p. 1343.

weapons with widespread impact, although with two strict conditions as previously mentioned. None of the five encourages al-Shihābī, which absolutely prohibits the use of weapons of mass destruction under any circumstances.⁷⁸

3. *Prohibition of Perfidy*

As a religion that upholds justice and honesty, Islam forbids perfidy and treachery, even in wartime. The prohibition of perfidy also applies in NIAC (Non-International Armed Conflict), and is also part of customary IHL. According to Chapter III Article 37 of the First Additional Protocol to the Geneva Conventions 1949 perfidy and treachery refer to the feigning of an intent to negotiate but then carrying out an attack, pretending to be sick but then killing, or feigning the use signs of a neutral party and those not parties to a conflict.⁷⁹

All five Indonesian *tafsirs* prohibited such perfidy and treachery acts. Muslims must fulfil all agreements they sign. As mentioned before, the Qur'an attributed the piety to those who fulfil his promises. One of the signs of a Muslim's piety is his commitment to keeping his promises, even with non-Muslims.⁸⁰ Shihab calls these kinds of agreements a reasonably peaceful call.⁸¹ However, the Qur'an never justified the act of treachery.

Tafsir *Al-Azhar* explicitly explains the obligation for a Muslim to announce the annulment of any non-aggression pact before attacking an enemy. The Qur'an never permits an attack toward the enemy signed an armistice agreement or peace agreement.⁸² In addition, the Qur'an, 9: 4 also admonishes Muslims to adhere stated four-month deadline.

⁷⁸ Ibrāhīm Yahyā al-Shihābī, *Maḥmūd al-Ḥarb wa al-Salām fī al-Islām Ṣirā'āt wa Ḥurūb... Am Tafā'ul wa Salām?* (Tripoli: Manshūrāt Mu'assasah May li al-Ṭibā'ah wa al-Tawzī', 1990), p. 76.

⁷⁹ Dirjen Administrasi Hukum Umum, *Protokol Tambahan Pada Konvensi-Konvensi Jenewa 12 Agustus 1949 Dan Yang Berhubungan Dengan Perlindungan Korban-Korban Pertikaian Bersenjata Internasional (protokol) Dan Bukan Internasional (Protokol II)*, p. 48.

⁸⁰ Singkel, *Tarjumān al-Mustafīd*, 1: 188; al-Bantanī, *Marāḥ Labīd li Kashf Ma'nā al-Qur'ān al-Majīd*, 1: 330; Wafā, *Firdaws al-Na'im bi Tawḍīḥ Ma'ānī Āyāt al-Qur'ān al-Karīm*, 2: 482–3.

⁸¹ Shihab, *Tafsir al-Misbāḥ*, 1: 25.

⁸² Hamka, *Tafsir Al-Azhar*, 4: 2859.

No one should misuse this time to injure or kill improperly.⁸³ Hamka condemns De Mesquita, the Portuguese Governor, who pretended to entertain Sultan Khairun of Ternate but then killed him amidst their non-aggression pact signed by each other under the Qur'an and the Bible.⁸⁴

At this point, it seems that Hamka explains the prohibition against treachery in the war in more detail, mainly to target specific people's lives. At the same time, the other four tafsirs limit their commentaries only on the necessity of keeping promises in general.

4. *Prohibition of Tortures or Cruel Acts*

Torture is a prohibited.⁸⁵ The positive law defines torture as an act that causes pain, cruelty, inhumanity, which is carried out as humiliating or punishing someone.⁸⁶ According to international law, an important element in torture's definition is actually the *purpose* (not only for punishment, but may also be to obtain information/confession, intimidation or coercion, or any reason based on discrimination of any kind).⁸⁷ The definition of torture under international law is developed within the framework of human rights law. Judges in international tribunals (ICTY, ICTR, and ICC) have referred to the definition of torture under international human rights law when dealing with cases involving torture as a war crime.⁸⁸ The Prophet said: “*fa idhā qataltum fa*

⁸³ *Ibid.*, 4: 2860.

⁸⁴ *Ibid.*, 4: 2869.

⁸⁵ United Nations, *III Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949*, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.32_GC-III-EN.pdf, accessed 16 Oct 2021.

⁸⁶ Nigel S. Rodley, ‘The Definition(s) of Torture in International Law’, *Current Legal Problems*, vol. 55, no. 1 (2002), p. 468.

⁸⁷ UN Human Rights, ‘Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’, OHCHR (26 Jun 1987), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>, accessed 4 Mar 2022.

⁸⁸ ICRC, ‘Rule 90. Torture and Cruel, Inhuman or Degrading Treatment’, IHL Database - Customary IHL, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule90, accessed 4 Mar 2022.

aḥsinū al-qitlab”, if you kill well.⁸⁹ This means do not kill the enemy slowly because it amounts to torturing someone.⁹⁰

There is no specific discussion about the prohibition of tortures against an enemy in those five *tafsirs* except for the *Tafsir Al-Azhar*. Hamka quoted the confession of a Luboy reverend, Reymond Dagell, about what the Crusaders did when attacking Jerusalem:

“There was one thing that really surprised the Arabs to accept it, as soon as our people were able to control the trenches across the city of Jerusalem and its fortifications. They chopped the Arab people’s heads off. That was the lightest punishment! Some times, they tore the people’s stomachs apart until their organs popped out, or they exerted Arab people to jump from high city walls, then their bodies crushed upon hitting the ground. Other Arab people were set ablaze even with fire after being tortured in many ways for a long time.... That was only a tiny part of the torture they suffered. There were many more.”⁹¹

It appears that Hamka wanted to show that playing with and enjoying the enemy’s pain is a crime against humanity, and infringe the Prophet teachings.

5. *Prohibition of Mutilation*

A mutilation is any act of dismembering a human body.⁹² Under the rules of the Geneva Conventions, mutilation is considered a war crime and is strictly prohibited.⁹³ The Prophet also avoided mutilating enemy’s body. The Prophet always said to Muslim troops before war: “*Ughzū wa lā tagbullū, wa lā taghdirū, wa lā tumaththilū, wa lā taqtulū walīdan,*”⁹⁴ fight and do not cross the line, do not run away, do not mutilate, and do

⁸⁹ Abū al-Ḥasan Muslim al-Ḥajjāj, *Saḥīḥ Muslim*, vol. 3 (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1988), p. 1548.

⁹⁰ Aḥmad ibn Muḥammad Ṭahāwī, *Sharḥ Ma‘ānī al-Āthār* (Riyadh: Ālam al-Kutub, 1994), p. 184.

⁹¹ Hamka, *Tafsir Al-Azhar*, 4: 2867.

⁹² David Moeljadi and et al (eds.), ‘Mutilasi’, *Kamus Besar Bahasa Indonesia V 0.4.0 Beta (40)* (Jakarta: Badan Pengembangan Bahasa dan Perbukuan, Kementerian Pendidikan dan Kebudayaan Republik Indonesia, 2016).

⁹³ United Nations, *IV Geneva Convention Relative to The Protection of Civilian Persons in Time of War of 12 August 1949*.

⁹⁴ al-Ḥajjāj, *Saḥīḥ Muslim*, 3: 1357.

not kill children.

The Qur'an does not mention the prohibition of mutilation explicitly, but Qur'an, 16: 126 is often associated with this prohibition because of its *asbāb al-nuzūl* (reasons for revelation). Of the five tafsirs examined, *Al-Azhar* is the only tafsir that mentions the prohibition when explaining the Qur'an, 2: 190. It wrote: "Do not mutilate the dead bodies".⁹⁵

Four of the five tafsir: *Tarjumān al-Mustafīd*, *Marāḥ Labīd*, *Al-Azhar*, and *Firdaws al-Na'īm* acknowledge the validity of the *asbāb al-nuzūl* narration of Qur'an, 16: 126, while *Al-Misbbāḥ* rejects it. According to *Al-Misbbāḥ* Surah *Al-Nahl* was revealed before the *Hijrah*, while the Uḥūd war, where the body of the Prophet's uncle, Hamzah, was mutilated, occurred in the third year of *Hijrah*. Logically, *asbāb al-nuzūl* must accompany a verse or surah's revelation and should not happen much later.

Nonetheless, *Tafsir al-Misbbāḥ* stands side by side with other tafsirs in the prohibition of mutilation. The four tafsirs build their arguments on God's scolding toward the Prophet's vow to mutilate his enemy precisely the way they mutilate his uncle.⁹⁶ At the same time, *Tafsir al-Misbbāḥ* focuses on the fact that the Prophet's immediately controlled himself when thinking to revenge through mutilation seventy times.⁹⁷ According to Hamka, mutilation is not permitted and is considered despicable, even in the *Jābiliyyah* tradition. Therefore, soldiers who mutilate enemy combatants deserve to be called "war criminals."⁹⁸

6. *Ending a the War When Its Cause No Longer Exists*

The Qur'an teaches stopping aggression if its underlying cause no longer exists. Qur'an, 2: 193 states: "... *fa in intabaw fa lā 'udwān illā 'alā al-ḡālimīn*", If they stop (doing *fitnah* [torturing and attacking]), there

⁹⁵ Hamka, *Tafsir Al-Azhar*, 1: 445.

⁹⁶ Singkel, *Tarjumān al-Mustafīd*, 1: 282; al-Bantanī, *Marāḥ Labīd li Kashf Ma'nā al-Qur'ān al-Majīd*, 1: 470; Muḥammad Ṭayfūr 'Alī Wafā, *Firdaws al-Na'īm bi Tamdhīb Ma'ānī Ayāt al-Qur'ān al-Karīm*, vol. 3 (Sumenep: Pesantren Assadad), pp. 353–4.

⁹⁷ Shihab, *Tafsir al-Misbbāḥ*, 6: 779.

⁹⁸ Hamka, *Tafsir Al-Azhar*, 5: 3990..

is no (more) enmity, except towards tyrants.⁹⁹ The five *tafsirs* agree on the rule that war must stop if its cause does not exist anymore, but they interpret the verse in different ways. *Tarjumān al-Mustafīd* explains that armed aggression the war must ceased when the *shirk* has disappeared.¹⁰⁰ *Firdaws al-Na'im* adds a point ceased attack by an enemy, in addition to *shirk* and disbelief. Thus, war must cease when an enemy's attack has ceased or when the Muslim troop successfully eradicate the *shirk* and all of the disbelief. Again, *Firdaws al-Na'im* emphasized that surah *Al-Tawbah* abrogated the first cause and only affirmed the last couple causes.¹⁰¹

On the other side, *Marāḥ Labīd*, *Al-Azḥar* and *Al-Mishbāḥ* set the standard for mandatory cessation of hostility differently. According to *Marāḥ Labīd*, the Muslim troop must cease hostilities when there is no more persecution by the polytheists.¹⁰² *Al-Azḥar* said the Muslim troop had to cease the hostilities if the enemy surrendered and was powerless.¹⁰³ In comparison, *Al-Mishbāḥ* explained that the Muslim force had to cease hostilities when injustice, physical abuse, and religious persecution have disappeared.¹⁰⁴

Although each *tafsir* has different standards for mandatory cessation of hostilities, all five *tafsirs* share the same view: armed aggression must cease as soon as it causes disappear.

D. Shifting the Intensity of *Jus in Bello* in Five Indonesian *Tafsirs*

Hashmi asserted that the classical Muslim scholars paid much more attention to *jus in bello* than *jus ad bellum*. Thus, the contemporary Muslim scholars fixated on responding to Western accusations against the concept of war in Islam. Thus they focused on elucidating the justification for permissible war in Islam. Muslim *jus in bello* studies have gradually

⁹⁹ Qur'an, 2: 193. Lajnah Pentashihan Mushaf Al-Qur'an, *Terjemah Al-Qur'an Tabun 2019*, p. 20.

¹⁰⁰ Singkel, *Tarjumān al-Mustafīd*, 1: 31.

¹⁰¹ Wafā, *Firdaws al-Na'im bi Tawḍīḥ Ma'ānī Āyāt al-Qur'an al-Karīm*, 1: 188–9.

¹⁰² al-Bantanī, *Marāḥ Labīd li Kashf Ma'nā al-Qur'an al-Majīd*, 1: 50.

¹⁰³ Hamka, *Tafsir Al-Azḥar*, 1: 447.

¹⁰⁴ Shihab, *Tafsir al-Mishbāḥ*, 1: 510.

become untouched in the contemporary Muslim works.¹⁰⁵

Analyzing five Indonesian *tafsirs* originated from different eras shows the opposite result. *Tarjumān al-Mustafīd* and *Marāḥ Labīd* who represent the pre-colonial and colonial eras, show that the intensity of discussion on *jus in bello* is very limited. It can be seen from the previous analysis that *Tarjumān al-Mustafīd* and *Marāḥ Labīd* tend to be briefer in interpreting the Qur'an. The community need that time for instructional books of learning as the reason why al-Singkilī wrote a straightforward interpretation of the Qur'an, line by line. Both *tafsirs* save the readers time of reading the precise Qur'an meanings and Arabic at the same time.

Understanding the literal meaning of the Qur'an has two advantages: understanding the meaning of the Qur'an itself and simultaneously learning Arabic at the same time. The impetus for writing *Marāḥ Labīd* was not much different. Al-Bantanī wrote the *tafsir* at his Indonesian colleagues' request. Al-Bantanī himself was in Mecca, but he realized that his friends' condition (fighting the Dutch colonialists) required the short Quran commentaries. The brevity level of *Tarjumān al-Mustafīd* and *Marāḥ Labīd* are quite different. The latter adds some substances unavailable in the former; it conforms al-Bantanī's confession that *li kulli zamān tajdīd*, in every era there must be a renewal.¹⁰⁶

The short pre-colonial and colonial *tafsir* generated short discussion of *jus in bello*. They both discussed *jus in bello* peripherally, following the literal arrangement of the Qur'anic verses, contrary to the contemporary Indonesian *tafsirs* such as *Al-Aḥḥar* and *Al-Misbbāḥ*. They explained the protection of non-combatants and civilian objects as well as limitations on the means and methods used in warfare in more detail than the two previous *tafsirs*.

Firdaws al-Na'īm shows a surprising fact. According to its time of writing, *Firdaws al-Na'īm* is more recent than the other four *tafsirs*, but based on some content on *jus in bello*, *Firdaws al-Na'īm* seemed to be coming from the an earlier Islamic era than the other four. It still offers the option of enslaving enemy combatants as the main alternative in treating prisoners of war. In addition, *Firdaws al-Na'īm* also often emphasizes

¹⁰⁵ Sohail H. Hashmi, 'Saving and Taking Life in War: Three Modern Muslim Views', *The Muslim World*, vol. 89, no. 2 (1999), pp. 158–9.

¹⁰⁶ al-Bantanī, *Marāḥ Labīd li Kashf Ma'nā al-Qur'an al-Majīd*, 1: 2.

that least severe options in the ethics of war, as previously described, are abrogated by the most severe. The execution options concerning the treatment of prisoners of war is a clear example. Two of five tafsirs give the option of execution: *Firdaws al-Na'im* and *Al-Azhar*. The differences between the two tafsirs lie in the sequence of the options. *Firdaws al-Na'im* espoused the execution option as the first, while *Al-Azhar* put it as the last after various consequences and considerations. On this side, the interpretation of *Firdaws al-Na'im* looks like an anomaly in the contemporary *tafsir*. He was born in the contemporary era but used and popularized a classical mindset.

E. Concluding Remarks

The previous sections leads to two conclusions: *First*, the intensity of *jus in bello* discussion in Indonesian *tafsir* shifts inversely to other fields portion. The discussion of *jus in bello* has dominated the contemporary Indonesian *tafsir* moreso than the classical. This is the opposite of the shift in historical or Fiqh studies.

Second, the scattered discussions of *jus in bello* in five Indonesian *tafsir* prove sufficient dissemination of the ethics of war from the classical to the contemporary era. The discussions on *jus in bello* in the Indonesian *tafsir* dynamically flow, although not as profoundly as similar discussions in the fields of Islamic history or Fiqh. The reason for this is that the general interpretation of *taḥlīlī* follow the general flow of the Qur'an and is strongly influenced by the academic background of the exegete. This has influenced the style and nuance of each *tafsir*. As long as the exegete has no particular intellectual background in Islamic humanitarian law or international humanitarian law, it is unlikely that his interpretation will deeply delve into the aspects of *jus ad bellum* or *jus in bello*.

Acknowledgment

Gratefully thank ICRC, UIN Sunan Kalijaga, al-Jami'ah, and IAIS Malaysia for their full support of this research. Special thanks to Prof. Ratno Lukito, Dr. Moch Nur Ichwan, Assoc. Prof. Dr. Mohamed Azam, Novriantoni Kaharudin, Zezen Zaenal Mutaqin Ph.D, Dominic Earnshaw, Adhiningtyas Sahasrakirana Djatmiko and Chistian Donny Putranto for their fruitful discussions and corrections as well as their support and encouragement to enrich this article.

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