



THE PROPHET (PEACE BE ON HIM)'S MERCIFUL REFORMS IN THE CONDUCT OF WAR THE PROHIBITED ACTS

MUHAMMAD MUNIR*

Associate Professor and Chairman, Department of Law, Faculty of Shari'ah and Law
International Islamic University, Islamabad.

<muhammadmunir@iiu.edu.pk>

A B S T R A C T

This paper argues that Islam introduced far reaching merciful reforms to warfare. The conduct of the Prophet (peace be on him) and in compliance with his *Sirah*, the conduct of his successors do not allow the burning and drowning of enemy to death. Destroying buildings, cutting down trees, committing perfidy, breaching the trust of the enemy, the killing of women, children, servants, old, infirm, sick, wounded, priests, peasants, prisoners of war and envoys are strictly against the practices and teachings of the Prophet (peace be on him) and his successors. The destruction of harvest, livestock and forests, looting, plundering and corruption from the war booty, and indiscipline are prohibited as well. Mutilation of bodies, Genocide and war crimes are gravely abhorred and forbidden by the Prophet (peace be on him). Thus, the Prophet (peace be on him), this paper shows, brought humanity and Merciful Reforms to the conduct of war.

* The author is Associate Professor and Chairman, Department of Law at the Faculty of Shari'ah and Law, International Islamic University, Islamabad and Visiting Professor at the University College of Islamabad. He holds a PhD in law and has published numerous research papers in various research journals around the world on different aspects of Islamic law of war and peace. He wishes to thank Ronald Ofteringer for commenting on an earlier draft of this article. He is also thankful to Muhammad Mushtaq Ahmad for his comments which improved the work in many good ways. He is grateful to Muhammad Zubair Abbassy, Salman Farooq, Nida Tareen, Kuwaja Muhammad, and Shamsul Haq for their help.

INSIGHTS, 'Mercy for the Worlds' Number, 02: 2-3 (Winter 2009-Spring 2010) pp. 221-260



Introduction

War in Islam is allowed to protect faith from external attacks. During the war, however, none of those non-Muslims can be killed who do not participate in war.¹ If combatants are taken captives, they ought to be released but may also be exchanged.² This paper does not focus on the causes of war, non-combatant immunity as well as the treatment of prisoners of war. Instead leaving these issues aside it focuses on all other acts that are prohibited in war. Most of the authors give very little space to the acts prohibited in war and mention them only in passing. Due to the importance of this area an attempt is made here to comprehensively treat the issue of the acts prohibited in war in Islamic *jus in bello*.

The questions that are treated below from an Islamic perspective with special reference to the *Sirah* of the Prophet Muḥammad (peace be on him) include: whether enemy can be attacked without prior warning? Whether an enemy can be killed by burning or drowning? Whether someone from the enemy side can be executed hand-tied? What is the fate of prisoners of war? Can they be executed? Are plundering and looting in war legal? Can harvest, livestock, plantation, forests and other objects be destroyed? Do envoys have immunity, especially during war? Are ruse, treachery and perfidy allowed during warfare? Are treaties binding on Muslims during wars? Can treaties be signed during war, especially for the conduct of war? How should the Muslim army behave during war? Are there historical instances in which war crimes and genocide were committed by Muslim soldiers? Moreover, what is the attitude of Islamic law towards war crimes and genocide? This paper attempts to answer the above questions from an Islamic perspective with

1. For details, see, Muhammad Munir, "The Protection of Civilians in War: Non-Combatant Immunity in Islamic Law," *Hamdard Islamicus*, forthcoming.

2. See, *ibid*.

special focus to the *Sīrah*. It delves into the practices, traditions and the instructions of the Prophet (peace be on him) to the military commanders as well as those of the Rightly Guided Caliphs (*al-Khulafā' al-Rāshidūn*) available in collections of the *Ḥadīth*, *Sīrah* and *Siyar*³ to analyse the above issues. Despite the fact that the main focus of this paper is the various acts prohibited in war, there are certain issues that cannot be understood without explaining acts that are allowed in war. Therefore, it is necessary to explain certain acts that are permissible. An obvious example is perfidy and ruse. Both seems inseparable and must be explained together. To better appreciate the extent to which the reforms introduced and practiced by the Prophet Muḥammad (peace be on him) and his successors, the Rightly Guided Caliphs, brought mercy and humanity in the conduct of war a survey of the conducts of war in various religions and civilisations would have been in place here before getting into these issues. However, given to the constraints of the space only a brief account of the conduct of the warfare of the Arabs among which the Prophet Muḥammad (peace be on him) lived and initially propagated the message of Islam, is given below.

The Arab Conduct of Warfare

To understand the importance of the questions posed above one should know the barbarity that was the norm of the conduct of war of the ignorant (*jāhili*) Arabs among which the Prophet Muḥammad (peace be on him) was raised as the final Prophet with universal Islamic message of mercy and humanity. War among the Arabs was a routine matter, a pre-occupation if not a profession. War booty was considered the most important of the objectives of such wars. There used to be rivalries among different tribes that would continue for generations. Here are only a few of their practices of barbarity.

The Arabs of ignorant (*jāhili*) period used to kill prisoners of war as well as the women and children. The later usually were put to fire.⁴

3. For a detailed study of the term *Siyar*, its evolution as well as its place in public international law, see, Muhammad Munir, "International Islamic Law: *Siyar*," *Research Papers*, vol. VII, no. 1–2 (2007), pp. 923–938.

4. See, Aḥmad b. Muḥammad b. Ibrāhīm al-Nishābūrī, *Majma' al-Amthāl*, ed., Muḥammad Muḥyi 'l-Dīn

According to 'Allāmah Shibli Nu'mānī (d. 1332/1914) and Syyid Sulaymān Nadvī (d. 1373/1953), such attacks used to be by surprise. The victim tribe would never be given any prior warning of any attack. The killing used to be indiscriminate and this was a common practice. The Arabic terms 'fatik' or 'fatiāk' [literally, assassin, murderer] were used for those who had attained the status of heroes in such attacks.⁵ It is reported that when Sa'd b. Hind—brother of 'Amr b. Hind (d. 45 BH/578)—an Arab king, was killed by Banū Tamīm, he swore that he would kill 100 in revenge. When he attacked Banū Tamīm, they took to flight, however, an old woman whose name was al-Ḥamrā' bint Ḍamrah b. Jābir was left behind. She was arrested and thrown in an inferno. Coincidentally, another man from Banū Tamīm, whose name was 'Ammār al-Dārīmī al-Tamīmī, came over. He was caught and upon investigation he said he was very hungry and had no food for several days and when he saw the smoke he come over in expectation of getting something to eat. 'Amr ordered that he be also put in the same fire.⁶

The children had no immunity and no mercy as well. It is reported that they were also used as target for arrow practice.⁷ In some instances feet, hands and other parts of enemy soldiers would be cut off and they would be left to die. It is reported that Ḥakam b. al-Ṭufayl (d. 03/624) committed suicide by strangling his throat in the battle of Ghatfān and 'Āmir because of this fear.⁸ Even the dead

'Abd al-Ḥamīd (Cairo: Maṭba' al-Sa'ādah, 1959), vol. 1, p. 342.

5. Nu'mānī and Nadvī mention that Thābiṭ Shirrā and Sulayk b. Sulakah were two such people who were known for their skills in surprise attacks. See, Shibli Nu'mānī va Sayyid Sulaymān Nadvī, *Sīrat al-Nabī* (Lahore: al-Faiṣal Nāshirān, n.d.), vol. 1, p. 352. For more details, see, Aḥmad b. Muḥammad b. 'Abd Rabbih, *al-'Iqd al-Farīd*, ed., Mufīd Muḥammad Qamīḥah (Beirut: Dār al-Kutub al-'Ilmiyyah, 1983), vol. 1, p. 29, n. 4, pp. 107, 108; vol. 2, p. 336; vol. 3, pp. 10, 154, 250 and 300.

6. See, al-Nishābūrī, *Majma' al-Amthāl*, vol. 1, pp. 394–395; Khayr al-Dīn b. Maḥmūd b. Muḥammad al-Zarkālī, *al-A'lām* (Bairut: Dār al-'Ilm li'l-Malāyīn, 2002), vol. 5, p. 35. According to another report, 'Ammār became the 100th person who was put in the inferno. Details of the story are available online at: <<http://www.al-hakawati.net/arabic/civilizations/book76a7.asp>>, last accessed 13–08–2009.

7. Nu'mānī and Nadvī mention the story of the children of Qays who handed over their children to Banū Dhibyān as a pledge and the leader of the later killed all of them in target practice in front of a large number of people. See, Nu'mānī va Nadvī, *Sīrat al-Nabī*, vol. 1, p. 353.

8. See, *ibid.*

bodies of enemy soldiers were mutilated and their body parts were cut off in revenge. Following the same tradition, after the battle of Uḥud, Hind bint ‘Utbaḥ (d. 14/635), the wife of the Quraysh chieftain, mutilated the dead body of Ḥamzah b. ‘Abd al-Muṭṭalib (d. 03/624)—Prophet’s uncle, as well as those of other Muslim martyrs and proudly wore a necklace of their body parts. She also cut off Ḥamzah’s liver and tried to eat it up.⁹ The ignorant (*jāhili*) Arabs to show their ruthlessness in taking revenge used to swear that they would overpower the enemy and drink wine in their skulls. Sulāfah—a pagan woman from Makkah, whose two sons¹⁰ were killed by ‘Āṣim b. Thābit (d. 63/682) in the battle of Uḥud—had sworn that she would have ‘Āṣim killed and use his skull for drinking wine.¹¹ They used to tear apart the fetus of pregnant women and used to be proud of it.¹²

These were some of the heinous acts that were routinely committed during wars by the ignorant (*jāhili*) Arabs. Such acts were also committed by the Makkan pagans in their wars with the Muslims. After this very brief overview we now turn to the reforms introduced by the Prophet (peace be on him) in the warfare.

Reforms of the Prophet (peace be on him) in Warfare

The Prophet (peace be on him) introduced and himself put into practice several crucial humane reforms in the warfare befitting to his mission of welfare of mankind in this world as well as in the next one and befitting to his very nature of being the Mercy for all the worlds, as declared in the Qur’ān.¹³

9. See, *ibid.*

10. They were Musāfi‘ b. Ṭalḥah and Kilāb b. Ṭalḥah. See, ‘Izz al-Dīn Abī ‘l-Ḥasan ‘Alī b. Muḥammad Ibn al-Athīr, *Usud al-Ghābah fi Ma‘rifah al-Ṣaḥābah*, ed., al-Shaykh Khalil Ma‘mūn (Beirut: Dār al-Ma‘rifah, 1997), vol. 2, pp. 506–507.

11. See, *ibid.*; also see, al-Zarkālī, *al-A‘lām*, vol. 3, p. 248.

12. See, Nu‘mānī va Nadvī, *Sīrat al-Nabī*, vol. 1, pp. 353–354.

13. See, the Qur’ān 21: 107.

Prohibition of Attack without Prior Warning

The ignorant (*jāhili*) Arabs, as mentioned above, used to attack each other without any prior warning. The preferred time of their attack was late in the night when everybody would be asleep and the enemy would be taken by surprise. The Prophet (peace be on him) prohibited this and laid down the rule that there should be no attack before morning. Anas b. Mālik (d. 93/711) reported that when the Prophet (peace be on him) led expedition against Khaybar he reached there at night. And whenever he and his army would reach the enemy at night they would not attack till morning. Early morning when some Jews who came out [of the twon wall] with their agricultural tools saw him and his army, they exclaimed Muḥammad has arrived! By Allah Muḥammad with his army!¹⁴

Prohibition of Burning to Kill the Enemy

The Arabs used to exceed all limits in revenge. They used to burn the enemies to death. The Prophet (peace be on him) prohibited this barbaric practice by teaching that “None except the Creator and Sustainer of the fire (*Rabb al-Nār*) has the right to punish with fire.”¹⁵ Abū Hurayrah ‘Abd al-Raḥmān b. Ṣakhr (d. 57/676) also reported the context in which the burning by fire was prohibited by the Prophet (peace be on him). He narrated that once the Prophet (peace be on him) dispatched us on a campaign, he said to the group, “If you come across so and so and so and so, burn them both.” But when we were preparing to leave, the Prophet (peace be on him) said, “I ordered you to burn those two, but Allah alone is worthy of punishing with fire. So if you find them just kill them.”¹⁶ Muḥammad

14. See, Abū ‘Īsā Muḥammad b. ‘Īsā al-Tirmidhī, *Sunan al-Tirmidhī*, in *Mawsū‘ah al-Ḥadīth al-Sharīf* (Jeddah: Dār al-Salām, n.d.), p. 1811, *ḥadīth* no. 1550, Kitāb Abwāb al-Siyar ‘an Rasūl Allāh Ṣallā Allāh ‘alayh wa Sallam, Bāb Fi ‘l-Bayāt wa ‘l-Ghārāt.

15. See, Abū Dāwūd Sulaymān b. al-Ash‘ath al-Sijistānī, *Sunan Abī Dāwūd*, in *Mawsū‘ah al-Ḥadīth al-Sharīf* (Jeddah: Dār al-Salām, n.d.), p. 1421, *ḥadīth* no. 2675, Kitāb al-Jihād, Bāb Karāhiyah Ḥarq al-‘Aduww bi al-Nār.

16. See, Muḥammad b. Ismā‘īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, ed., Muṣṭafā Dīb al-Baghā, 3rd edn. (Beirut: Dār Ibn Kathīr, 1987), vol. 3, p. 1098, *ḥadīth* no. 2853, Kitāb al-Jihād wa ‘l-Siyar, Bāb Lā Yu‘adhhab bi ‘Adhāb Allāh. See also, Muḥammad b. al-Ḥasan al-Shaybānī, *Sharḥ al-Siyar al-Kabīr, Imlā’*

b. al-Ḥasan al-Shaybānī (d. 189/804) also reports in his *magnum opus* study of *Siyar* that when the Prophet (peace be on him) appointed Mu‘ādh b. Jabal (d. 18/639) as a judge in Yemen, he told him about a person that if he be apprehended burn him to death. However, later on he ordered him not to burn him but to execute him instead.¹⁷ This change of mind on the part of the Prophet (peace be on him) from burning to killing constitutes a tradition of proscribing injuring the enemy with a weapon that causes unjustified pain. However, the Hanafites allow it as a last resort, when all other means of defeating the enemy are exhausted. However, they contend that it is to be used to force the enemy to surrender and not to kill them.¹⁸ Similarly, they also allow forcing the enemy to surrender by using smoke as a weapon.¹⁹

Prohibition of Execution of Hand-tied Persons

Torture constitutes another cruel method. The Prophet (peace be on him) is reported to have said, “Allah will torture those who torture people.”²⁰ The Prophet (peace be on him) strictly prohibited the killing of enemy soldiers by torturing. He prohibited the execution of a person who is hand-tied. It is reported that once ‘Abd al-Raḥmān b. Khālid b. al-Walid (d. 46/666)—who was commanding an expedition—was brought in four persons who were hand-tied. He ordered their execution but when this was reported to Abū Ayyūb al-Anṣārī (d. 52/672), he condemned it and said: “I have heard the Prophet (peace be on him) condemning it. And if it would be me, I would not execute even a hen in this way.”²¹ When this was

Muḥammad b. Aḥmad al-Sarakhsī, ed., *Muḥammad Ḥasan Muḥammad Ismā‘il* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1417/1997), vol. 4, pp. 223, 227.

17. See, *ibid.*, vol. 4, p. 223. Another interesting instance is when the angry Muslim commander of a battalion ordered his subordinates to enter into fire and they refused. Later, when the Prophet (peace be on him) was informed, he said: “Had they entered it, they never would have come out of it. Obedience is only in the lawful commands.” Al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 117.

18. *Ibid.*, vol. 4, p. 276.

19. *Ibid.*, vol. 4, p. 225.

20. See, Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Birr wa ‘l-Ṣīlah wa ‘l-Adab, Bāb al-Wa‘id al-Shadīd li man ‘Adhdhab al-Nās.

21. See, Abū Dāwūd Sulaymān b. al-Ash‘ath al-Sijistānī, *Sunan Abī Dāwūd*, Kitāb al-Jihād, Bāb fi Qatl al-

reported to 'Abd al-Raḥmān b. Khālid, he immediately set free four slaves as expiation.²²

Prohibition of Plundering, Looting and Corruption

Islam has prohibited plundering and looting in war. It is reported by al-'Irbād b. Sāriyah al-Salamī (d. 75/694) that after the truce was concluded between the Muslims and the Jews of Khaybar, some Muslim soldiers started looting and plundering. The Jewish leader came to the Prophet (peace be on him) and complained: "O Muḥammad! How could your people kill our donkeys; eat our fruit and beat up our women?" The Prophet (peace be on him) was infuriated upon learning it, and commanded 'Abd al-Raḥmān b. 'Awf (d. 33/653) to ride his horse and announce that [entrance in] *Jannah* is not permissible except for a believer and they all assemble for prayers.²³ When all of them got together, the Prophet (peace be on him) addressed them and said:

Have some of you become arrogant and think that Allah has not forbidden anything except those mentioned in the Qur'ān! I swear by Allah that whatever I advise you and whatever I order you to do or prohibit you to abstain from, are just like the Qur'ān if not more. You are not permitted to enter the houses of the People of the Book [Jews in this case]; beat up their women; eat up their fruit when they have kept up their terms.²⁴

It is not allowed for the Muslim army to take anything from people whom they come across while on their way to a *jihād*. It is reported that in one expedition the Muslim soldiers while being extremely fatigued and hungry came across some goats, they caught some, slaughtered them and started cooking the the meat. When the

Asīr bi al-Nabl.

22. See, *ibid*. Hand-tied killing is prohibited according to all *Sunnī* schools of Islamic *fiqh* and also the *Imāmiyyah Shī'ah*. See, Abū 'l-Qāsim Ja'far b. al-Ḥasan b. Yahyā al-Muḥaqqiq al-Ḥillī, *Sharā'i' al-Islām*, ed., Ṣādiq al-Ḥusaynī al-Shirāzī, 11th edn. (Beirut: Dār al-Qārī, 2004), vol. 1, p. 251.

23. See, Abū Dāwūd Sulaymān b. al-Ash'ath al-Sijistānī, *Sunan Abī Dāwūd*, Kitāb al-Kharāj wa 'l-Imārah wa 'l-Fay', Bāb Fī Ta'shīr Ahl al-Dhimmah Idhā Ikhtalafū bi al-Tijārāt.

24. *Ibid*; Yūsuf b. 'Abd Allāh b. Muḥammad Ibn 'Abd al-Barr, *al-Tamhīd li mā fī 'l-Muwāṭṭa' min al-Ma'ānī wa 'l-Asānīd* (Lahore: al-Maktabah al-Quddūsiyyah, 1983), vol. 1, p. 149.

Prophet (peace be on him) arrived and came to know about it he started turning the cooking pots upsidedown with his bow and then covering the meat with the sand, informing that the plundered things are no better than the dead animals.²⁵ He (peace be on him) would not even allow the milking of cows, sheep, goats or camels without the permission of their owners. Upon these bases al-Shaybānī argues that if a Muslim soldier takes something from the booty and it is recovered from his luggage, he ought to be punished.²⁶

Prohibition of Destruction

Islamic law prohibits unnecessary destruction of an enemy's real or personal property, devastation of harvest and cutting fruit trees, and demolition of religious institutions. It is not allowed to destroy crops and plantation or damage agricultural land and similar objects.²⁷ Islam considers this as a kind of *fasād* and, thereby, such activities are strictly forbidden.²⁸ Abū Bakr 'Abd Allāh b. Abī Quḥāfah 'Uthmān al-Ṣiddīq (51 BH–13 AH/573–634), the first Rightly Guided Caliph (11–13/632–634), instructed to the army of Yazīd b. Abī Sufyān (d. 18/639) while leaving for Syria, that villages and towns should not be ruined and crops should not be destroyed.²⁹

However, trees may be cut down, if necessary, as a military tactic only. The cutting down of the palm trees of Banū Naḍīr has been exaggerated by some authors. The specific palm trees of Banū Naḍīr that were cut down are called '*Līnah*' in the Qur'ān, "Whatever [of

25. See, Abū Dāwūd Sulaymān b. al-Ash'ath al-Sijistānī, *Sunan Abī Dāwūd*, Kitāb al-Jihād, Bāb Fī 'l-Nahy 'an al-Nahbā idhā kān fī 'l-Ta'ām Qillah fī Arḍ al-'Aduww.

26. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 4, p. 57.

27. See, Mālik b. Anas, *Muwatta' Mālik*, Kitāb al-Jihād, Bāb al-Nahy 'an Qatl al-Nisā' wa 'l-Ṣibyān fī 'l-Ghazw; Muḥammad b. 'Alī b. Muḥammad al-Shawkānī, *Nayl al-Awṭār Sharḥ Muntaqā al-Akhhār* (Cairo: Maṭb'ah al-'Uthmāniyyah al-Miṣriyyah, 1957), vol. 7, pp. 262–263. Boisard argues that starting with 3rd/9th century Islamic international law gave amnesty to hospitals, medical and paramedical personnel. See, Marcel A. Boisard, "The Conduct of Hostilities and the Protection of Victims of Armed Conflicts in Islam," *Hamdard Islamicus*, vol. 1, no. 2 (1978), p. 10.

28. See, the Qur'ān 2: 205. English translation of the *āyāt* of the Qur'ān in this work are taken from, Muhammad Asad, *The Message of the Qur'ān* (Wiltshire: Dar Al-Andalus, 1984, repr. 1997), unless otherwise indicated.

29. See, Mālik b. Anas, *Muwatta' Mālik*, Kitāb al-Jihād, Bāb al-Nahy 'an Qatl al-Nisā' wa 'l-Ṣibyān fī 'l-Ghazw.

their] palm trees you may have cut down, [O believers,] or left standing on their roots, was [done] by Allah's leave, and in order that He might confound the iniquitous."³⁰ According to renowned commentators of the Qur'ān trees had to be cut down in this particular incident to facilitate the military operations against the strongholds of Banū Naḍīr. However, apart from such stringent military exigencies, all destruction of enemy property—and, in particular, of trees and crops—had been and continued to be prohibited by the Prophet (peace be on him).³¹

There are two possible interpretations of this particular episode. According to Shahāb al-Dīn Abū 'l-Faḍl Aḥmad b. 'Alī b. Muḥammad Ibn Ḥajar al-'Asqalānī (773–852/1372–1448) only the cutting down of 'Līnah,' a particular type of palm tree, was allowed because its dates were not consumed by Banū Naḍīr. They consumed other types of dates, in particular, *al-'Ajwah* and *al-Barniyy*.³² It is also reported that when the companions cut down some trees they did not know whether it was allowed or not, and the above *āyah* was revealed to settle the issue. 'Abd Allāh b. 'Abbās (d. 67/687) reported that Muslims cut down some trees as a military necessity. When they realised that the legal rule about their action is not known, they asked the Prophet (peace be on him) whether their action was correct and worthy for good reward or it was wrong and blameworthy. It is in this backdrop that the above *āyah* was revealed.³³ There is a similar report from Jābir b. 'Abd Allāh b.

30. See, the Qur'ān 59: 5. According to Qatādah b. Da'āmah al-Sadūsī (d. 117/735) and Daḥḥāk b. Muzāḥim al-Hilālī (d. 102/720), only six palm trees and according to another report only two trees were cut down and burnt. See, Muḥammad b. Aḥmad al-Qurtubī, *al-Jāmi' li Aḥkām al-Qur'ān*, ed., Samīr al-Bukhārī (al-Riyāḍ: Dār 'Ālam al-Kutub, 1423/2003), vol. 18, p. 6. See also, Muḥammad Ṭāhir b. 'Āshūr, *Tafsīr al-Taḥrīr wa 'l-Tanwīr* (Tunis: Dār al-Saḥnūn, n.d.), vol. 11, p. 75.

31. Al-Shaybānī discusses the possibility of sending an expedition for cutting down trees to be used in building boats or mangonels [catapults]. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 4, p. 86.

32. Shahāb al-Dīn Abū 'l-Faḍl Aḥmad b. 'Alī b. Muḥammad Ibn Ḥajar al-'Asqalānī, *Fath al-Bārī Sharḥ Ṣaḥīḥ al-Bukhārī*, ed., Muḥibb al-Dīn al-Khaṭīb, with notes of al-'Allāmah 'Abd al-'Azīz b. Bāz (Beirut: Dār al-Ma'rīfah, 1379 AH), vol. 7, p. 333.

33. See, Jalāl al-Dīn 'Abd al-Raḥmān b. Abī Bakr al-Suyūṭī, *li Bāb al-Nuqūl fī Asbāb al-Nuzūl*, ed., al-Ustādh Aḥmad 'Abd al-Shāfi (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), vol. 1, p. 191.

‘Amr (d. 78/697) as well.³⁴

According to Mujāhid b. Jabr (d. 104/722), some *Muhājirūn* started cutting down the trees as a military necessity while others considered it ‘*fasād*’ (sinful act) and left them. Allah told them that it depended on the intention of the *mujāhidūn* and that both were right.³⁵ What is clear here is that the Prophet (peace be on him) did not order his army to cut down trees and what happened was based on the *ijtihād* of the companions of the Prophet (peace be on him).

However, this assertion that only a particular type of date—‘*Līnah*’ was cut down and others were spared may be interpreted in two ways: firstly, the particular area in which the trees were cut had only these kind of trees, and this is why only they were cut down; or secondly, if the trees were mixed up, then it seems very difficult for soldiers to differentiate between different types of palm trees. In the above case, it seems that a certain group in a certain place had cut them down where the trees in question happened to be ‘*Līnah*.’ The second interpretation is given by Muḥammad Abū Zahrah (1316–1394/1898–1974). His interpretation of the *āyah* 59: 5 is that the *āyah* does not say that the trees were cut down as such. Instead, it mentions that these were standing on their roots, which means that they were not cut down, and only their fruit were plucked. He argues that plucking the fruit from the tree cannot be considered destruction.³⁶ This would mean that some companions plucked the fruit while others did not. Whatever the case, trees can be cut down if required by military necessity only. In other words, the general rule is that trees cannot be cut down, but the exception is that these may be cut down only if it was a military necessity.

Similarly, buildings and houses cannot be destroyed. This is very clear from the instructions of Abū Bakr al-Ṣiddīq to the army dispatched towards Syria under the command of Yazīd b. Abī Sufyān

34. See, *ibid.*

35. See, the Qur’ān 59: 5.

36. See, Muḥammad Abū Zahrah, *al-‘Alaḳāt al-Duwaliyyah fi ‘l-Islām* (Cairo: Dār al-Fikr al-‘Arabī), p. 100; M. T. al-Ghunaymī, “Naḳrah ‘Āmah fi ‘l-Qānūn al-Duwali al-Insānī al-Islāmī” in ‘Āmir al-Zamālī, ed., *al-Qānūn al-Duwali al-Insānī wa ‘l-Islām*, 2nd edn. (n.p.: ICRC, 2007), p. 46.

(d. 18/639), while addressing them he said:

I do enjoin upon you ten commands, do stick to them: do not embezzle. Do not cheat. Do not breach trust. Do not mutilate the dead, nor to slay the elderly, women, and children. Do not inundate a date-palm nor burn it. Do not cut down a fruit tree, nor kill cattle unless they were needed for food. Don't destroy any building. May be, you will pass by people who have secluded themselves in convents; leave them and do not interfere in what they do.³⁷

The ten rules included 'do not destroy any building [Arabic 'Āmir], which is common and means 'any building' and not a particular building. Religious symbols must be respected. Livestock, harvests and forests must not be destroyed. This also applies to houses, cities and belongings. There is, nevertheless, also a Qur'ānic *āyah*, which says, "[and thus] they destroyed their homes by their own hands as well as by the hands of the believers."³⁸ This was in the aftermath of their breaching their treaty with the Prophet (peace be on him), which resulted in their banishment from Madīnah. The episode has been debated between those who see the cutting down of enemy's trees, allowed, and those who consider it as prohibited. The traditionists, such as Muḥammad b. Ismā'il al-Bukhārī (d. 256/870) and Muslim b. al-Ḥajjāj al-Qushayrī (d. 261/874), sided with the former view,³⁹ where as Abū 'Amr 'Abd al-Raḥmān b. 'Amr al-Awzā'ī (88–157/707–774), al-Layth b. Sa'd b. 'Abd al-Raḥmān al-Fahmī (94–175/713–791), Abū Thawr Ibrāhīm b. Khālid (d. 147–240/764–854) and Muḥammad b. Jarīr al-Ṭabarī (d. 224–310/838–923) have preferred the latter view.⁴⁰

37. See, Aḥmad b. al-Ḥusayn al-Bayhaqī, *al-Sunan al-Kubrā* (Ḥaydarābād: Maṭba'ah Dā'irah al-Ma'ārif al-'Uthmāniyah, 1354 AH), vol. 9, p. 85; al-Shawkānī, *Nayl al-Awtār*, vol. 7, p. 249.

38. See, the Qur'ān 59: 2.

39. See, Muḥammad b. Ismā'il al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Jihād wa 'l-Siyar, Bāb Ḥarq al-Dawr wa 'l-Nakhil; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa 'l-Siyar, Bāb Jawāz Qat' al-Ashjār al-Kuffār wa Taḥrīqihā; Abū Dāwūd Sulaymān b. Ash'ath al-Sijistānī, *Sunan Abī Dāwūd*, Kitāb al-Jihād, Bāb Fi 'l-Ḥarq fi Bilād al-'Aduww.

40. See, Ibn Ḥajar al-'Asqalānī, *Fath al-Bārī*, vol. 6, p. 154, 155

According to Muḥammad Abū Zahrah, the destruction of the houses of Banū Naḍīr by themselves as well as by the Muslims was for other reasons. He says,

This was done because they had used them as forts in which they took shelter and caused injury to the Muslims, so it was imperative to destroy those houses or to try to do so to protect the Muslims against injury. The companions of the Prophet (peace be on him) did only what was necessary, but when the Jews realised that they would hand over their houses to the Muslims and leave, they destroyed them completely.⁴¹

This is clear from the Qur’ānic *āyah*, which says, “[and thus] they destroyed their homes by their own hands as well as by the hands of the believers.”⁴² To make things clear, it is better to describe the episode. Shortly after the *Hijrah* from Makkah to Madīnah, the Prophet (peace be on him) concluded a treaty with the Banū Naḍīr, according to which they pledged themselves to neutrality in the hostilities between the Muslims and the pagan Quraysh. In addition, they agreed to join hands with Muslims in defending the city-state of Madīnah against any invading army. When Muslims became victorious over the Quraysh in the battle of Badr (2/624), the leaders of Banū Naḍīr declared that Muḥammad was indeed the Prophet (peace be on him) whose coming has been predicted in the Torah; but after the passage of one year, after the near-defeat of the Muslims at Uḥud (3/625), the Banū Naḍīr perfidiously breached their treaty with the Prophet (peace be on him) and entered into an alliance with his rivals—the Makkan Quraysh with a view to destroying the Muslim community once and for all. Thereupon the Prophet (peace be on him) placed before them an alternative: either war or departure from Madīnah with all their possessions. In case of accepting the latter proposition, they were allowed to return every year to gather the produce of their date groves, which would thus remain their property. They agreed to the second alternative, and asked for—and were granted—ten days of respite. In the meantime

41. See, Abū Zahrah, *al-‘Alāqāt al-Duwalīyyah*, p. 101.

42. See, the Qur’ān 59: 2.

they secretly conspired with the hypocrites among the Arabs of Madīnah, led by ‘Abd Allāh b. Ubayy (d. 09/630), who promised them two thousands armed warriors in case they decided to remain in their fortified settlements on the outskirts of the town: “Hence, do not leave your homes; if the Muslims fight against you, we shall fight side by side with you; and if they should succeed in driving you away, we shall leave Madīnah together with you.” The Banū Naḍhīr followed this advice, defied the Prophet (peace be on him) and took up arms.⁴³ This was a second treachery by them. In the ensuing conflict, their forts were besieged by the Muslims—though without actual fighting—for twenty one days; but when the promised help of ‘Abd Allāh b. Ubayy’s followers did not materialise, Banū Naḍhīr surrendered in the month of Rabī‘ al-Awwal, 4/625, and sued for peace. This they were granted on condition that they would leave Madīnah, taking with them all their movable properties, except their arms. Most of them immigrated to Syria in a caravan of about six hundred camels; only two families chose to settle in the oasis of Khaybar, while a few individuals went as far as al-Ḥīrah in lower Mesopotamia. The Qur’ān mentions in *āyāt* 7–8 of Sūrah al-Ḥaṣhṣ that their fields and plantations were forfeited by the Muslims.⁴⁴ Secondly, argues Abū Zahrah, Banū Naḍhīr used their fortified houses for military purposes and as such these houses genuinely became military targets. Thirdly, when they knew they had to quit Madīnah, taking away only their possessions, leaving behind their houses, they themselves started destroying their houses. The Muslims only helped them what the Banū Naḍhīr wanted to do. Otherwise, why would the Muslims destroy the booty that they were surely going to forfeit?⁴⁵

The crux of the matter is that whether a particular type of palm trees was cut down or their fruits were plucked, this is allowed only as a military necessity not as a general rule.

43. See, A. Guillaume, *The Life of Muhammad: A Translation of Ibn Ishaq’s Sirat Rasul Allah* (Oxford: Oxford University Press, 1955, repr. Karachi: Oxford University Press, 1967, 21st impr., 2007), p. 437.

44. See, the Qur’ān 59: 7–8.

45. See, al-Ghunaymī, “Naḍrah ‘Āmah fī ‘l-Qānūn al-Duwalī al-Insānī al-Islāmī,” p. 46.

The list of prohibited acts is very long and detailed, and include, *inter alia*, that non-combatants shall not be killed, which include women and children who are not fighters, slaves, servants, the blind and incapacitated, the elderly, crippled people, tourists who do not mix up with people, peasants, priests and so on.⁴⁶ Prisoners of war must be respected, facilitated and treated well. They have to be released but may also be exchanged.⁴⁷ Hostages cannot be executed. The wounded and sick must be helped. Massacre is forbidden and there can be no acts of revenge or poisoning. There can be no expulsion from homelands. Rape is prohibited. Drowning to kill the enemy is prohibited. The instructions of the Prophet (peace be on him), in this regard, to the Muslim army despatched against the advancing Byzantine army are as below:

In avenging the injuries inflicted upon us molest not the harmless inmates of domestic seclusion; spare the weakness of the female; injure not the infants at the breast or those who are ill in bed. Refrain from demolishing the houses and the unresisting inhabitants; destroy not the means of their subsistence, nor their fruit-trees and touch not the palm.⁴⁸

On numerous other occasions also the Prophet (peace be on him) emphasised the prohibition of mutilation of bodies and the prohibition of killing the children.⁴⁹ Accordingly, while driving legal rules (*aḥkām sharʿiyyah*) Hanafites like other Islamic schools of *fiqh* conclude that burning and drowning the enemy is Islamically prohibited (*ḥarām sharʿan*), therefore, it is not permissible to take a

46. For details, see, Muhammad Munir, “The Protection of Civilians: Non-combatant Immunity in Islamic Law,” forthcoming.

47. For details, see, Muhammad Munir, “The Protection of Prisoners of War in Islamic Law,” forthcoming.

48. See, Abū ‘Abd Allāh Muḥammad b. ‘Umar al-Wāqidi, *al-Maghāzī* (Beirut: Mu’assasah al-A‘lamī li’l-Maṭbū‘āt, 1409/1898), vol. 2, pp. 757–758; Aḥmad b. Zaynī Daḥlān, *al-Sirah al-Nabawīyyah*, 1st edn. (Ḥalb: Dār al-Qalam al-‘Arabī, 1417/1996), vol. 2, p. 236.

49. See, Muḥammad b. Ismā‘il al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Mazālim wa ‘l-Ghaṣab, Bāb al-Nuḥbā bi ghayr Idhn Ṣāḥibih; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa ‘l-Siyar, Bāb Ta’mīr al-Imām al-Umarā’ ‘ala ‘l-Bu‘ūth wa Waṣīyyatih Iyyāhum bi Ādāb al-Dhazw wa ghayrihā, wa Bāb al-Nisā’ al-Ghāziyāt Yurḍakh lahunn wa lā Yusham wa ‘l-Nahyy ‘an Qatl Ṣibyān Ahl al-Ḥarb.

recourse to it. However, they make an exception in it for a situation when it is unanimously considered that it is the *last* resort as all other means of victory have either been exhausted and failed or the means which have not been tried would prove to be more devastating.⁵⁰ They also permit in such cases throwing of fire on the enemy boats.⁵¹ In short, all cruel and ruthless activities were prohibited in war by the Prophet (peace be on him) and his successors.

Prohibition of Perfidy and Treachery

Almost every author of Islamic *jus in bello* discipline has discussed the firm prohibition of treachery and perfidy. However, necessary distinction must be made between ruse [*Khud'ah* in Arabic] and perfidy or treachery [*Ghadr*]. The former is allowed, whereas the latter is strictly prohibited. Both are briefly treated below:

(a) Ruse

It is reported that the Prophet (peace be on him) has described that war is ruse.⁵² And that ruse is invaluable in war. But what is ruse and why is it allowed? According to the Muslim military history ruse has been successfully used in many campaigns. It may include, *inter alia*: misguiding the enemy about the timings of attacks, camouflaging, giving the enemy an indication that the preparation of war is not meant to attack it for now. The Prophet (peace be on him) used to make use of trustworthy people to infiltrate the ranks of the enemy and to undermine their morale. On many occasions, the Prophet (peace be on him) or his commanders and even soldiers used language that was capable of two or more things or was of indefinite meaning. This is called equivocation, [*'tawriyah'* in Arabic], and is

50. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 4, p. 276.

51. Fire was thrown at the enemy boats by the Muslim navy at the time of Mu'āwiyah b. Abī Sufyān (r. 41–60/661–680). See, *ibid.*, vol. 4, p. 222. Al-Shaybānī also discusses the options available to Muslim sailors when their boat is destroyed by enemy's fire. See, *ibid.*, vol. 4, p. 248. What is clear from it is that throwing fire at boats of each other was done by both Muslim and non-Muslim navies at that time.

52. See, Muḥammad b. Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Jihād wa 'l-Siyar, Bāb al-Ḥarb Khuda'ah; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa 'l-Siyar, Bāb Jawāz al-Kidā' fi 'l-Ḥarb; also see, Ibn Ḥajar al-'Asqalānī, *Fath al-Bārī*, vol. 6, p. 158.

allowed in other situations as well. It has also been reported that when it became completely unavoidable in certain cases Muslim soldiers were allowed to lie to accomplish their tasks. But al-Shaybānī argues that telling a lie is not allowed even in duress and necessity. He says that what was allowed even in those cases was *tawriyah*, not *kidhb*.⁵³ However, it is an exception only in completely unavoidable situations even in wars and is never a general rule.

As an example of misguiding the enemy with the movements of the troops is the report, that the Prophet (peace be on him), while embarking on, to attack Banī Lahyān—who lived southward from Madīnah—went in the opposite direction from Madīnah to keep the enemy unalarmed from his planning of the attack. However, after going some distance the Prophet (peace be on him) turned southward taking another route towards the enemy.⁵⁴ It is reported that the Prophet (peace be on him) would never disclose his destination before time.⁵⁵

Another example of this is what Khālīd b. al-Walīd (d. 21/642)—the famous Muslim commander did when he took over the command of the army after the initial defeat of the Muslims against the Romans. Khālīd used a special strategy to overwhelm the enemy. He relocated the soldiers and used the right wing to go to the left wing; the front wing to go to the back and vice versa. The Romans thought that fresh Muslim troops have arrived on the battle field and they took to flight.⁵⁶

53. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, pp. 184–185.

54. See, Shams al-Dīn Muḥammad b. Abī Bakr b. Ayyūb Ibn al-Qayyim, *Zād al-M‘ād fi Hady Khayr al-‘Ibād*, 5 vols., 27th edn. (Beirut: Mua’assasah al-Risālah, 1415/1994), vol. 3, p. 246.

55. There are, perhaps, some exceptions to this general rule. For instance, for the expedition of Khaybar the troops were informed about the destination well before they were dispatched. Similar is the case of the Tabūk expedition. The Prophet (peace be on him) had announced beforehand that Muslims were to go to Tabūk to fight the Byzantines. The purpose was, of course, to make a clear distinction between a believer and a hypocrite. Generally, the Prophet (peace be on him) won’t disclose the exact purpose of an incursion ahead of time. See, Muḥammad b. Ismā’il al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Jihād wa ‘l-Siyar, Bāb Man Arād Ghazwan fa warrā bi Ghayrihā; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa ‘l-Siyar, Bāb Ḥadīth Tawbah Ka‘b b. Mālik wa Ṣāhibayh.

56. See, Abū ‘Abd Allāh Muḥammad b. ‘Umar al-Wāqidi, *Futūḥ al-Shām*, ed., ‘Abd al-Laṭīf ‘Abd al-

In another example it is reported that Ḥajjāj b. 'Ilāṭ al-Sulamiyy (died in the era of 'Umar b. al-Khaṭṭāb) embraced Islam and fought along with the Prophet (peace be on him) at Khaybar. When Khaybar was conquered, he said, "O Messenger of Allah, I have property in Makkah with my wife Umm Shaybah daughter of Abū Ṭalḥah, as well as assets with many traders of Makkah, allow me O Messenger of Allah to go there." The Prophet (peace be on him) gave him permission to go, whereupon he said, "O Messenger of Allah, I shall perforce have to lie there." The Prophet (peace be on him) told him to say what had to be said. In other words, the Prophet (peace be on him)'s permission was sought by Ḥajjāj so that he might resort to ruse with the inhabitants of Makkah in order to recover his property and assets. So, when he reached Makkah, his people asked him about news from Khaybar. He told them that Muḥammad [peace be on him] had suffered an unprecedented defeat and that his followers had either been killed or taken captive and that the people of Khaybar refrained from killing Muḥammad [peace be on him] but would send him to Makkah to be executed there in retaliation, whereupon the Makkans rejoiced. Ḥajjāj took this opportunity to recover his property and assets pretending to return to Khaybar in a hurry so that he could buy some of the booty before the arrival of other merchants. They instantly returned his property. After acquiring his valuables he left Makkah. However, he told the actual situation to the Prophet's uncle 'Abbās b. 'Abd al-Muṭṭalib (d. 32/652) secretly upon his inquiry, who, as per their mutual agreement, announced it to the Quraysh three days after Ḥajjāj left Makkah.⁵⁷

There are many instances of using equivocal language or 'tawriyah.' It is reported that when the Prophet (peace be on him) would intend to go on an expedition, he would try to hide his plans.⁵⁸ Similarly, if

Raḥmān, 2 vols. (Beirut: Dār al-Kutub al-'Ilmiyyah, 1417/1997), vol. 1, pp. 51–54.

57. See, Abū 'l-Qāsim Sulaymān b. Aḥmad al-Ṭabarānī, *al-Mu'jam al-Kabīr*, ed., Ḥamdī b. 'Abd al-Ḥamīd al-Salāfi, 25 vols., 2nd edn. (Cairo: Maktabah Ibn Taymiyyah, 1404/1983), vol. 3, pp. 220–221, Kitāb Bāb al-Ḥā', Bāb Ḥajjāj b. 'Ilāṭ al-Sulamiyy.

58. See, Muḥammad b. Ismā'il al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Jihād wa 'l-Siyar, Bāb Man Arād Ghazwan fa warrā bi Ghayrihā; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa 'l-Siyar, Bāb Ḥadīth

he would intend to go in one direction, he would ask people about another direction.⁵⁹ It is reported that when ‘Alī b. Abī Ṭālib (d. 40/661) duelled with ‘Amr b. ‘Abd Wud (d. 05/626) in the battle of Khandaq [trench], ‘Alī looked over ‘Amr’s shoulder and said: “‘Amr, I came out to fight you only, not with more. So, who are those whom you have invited?” ‘Amr looked back, to see whom ‘Alī was talking about and ‘Alī took advantage of that, struck him and cut his leg. ‘Amr said: “You have deceived me!” ‘Alī said: “War is all about ruse.”⁶⁰

In the year 5/626, the Makkans and a coalition of other Arab enemies of the Prophet (peace be on him), in order to attack Madīnah, besieged the city. The Prophet (peace be on him) had a treaty with the Jewish tribe of Banū Qurayzah. However, on the persuasion of the Jewish tribes in the coalition they, betraying the Prophet (peace be on him), silently allied themselves with the Makkans. Meanwhile, Nu‘aym b. Mas‘ūd (d. 36/656), a prominent member of the coalition, came to the Messenger of Allah (peace be on him) to accept Islam. He told the Prophet (peace be on him) that Banū Qurayzah had betrayed the Muslims and have allied with the Quraysh. The Prophet (peace be on him) asserted, “may be we have make them to do so (*fala‘allanā nahn amarnāhum bihādihā*).” Nu‘aym returned back to Abū Sufyān [b. Ḥarb (d. 32/652), head of the

Tawbah Ka‘b b. Mālik wa Ṣāhibayh. Aso see, Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī*, vol. 6, p. 113.

59. See, Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī*, vol. 6, p. 185.

60. Al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 86. In another report it is said that the Prophet (peace be on him) prohibited lying and made an exception in three situations, during war; for reconciliation between people; far husband making up with his wife or a wife making up with her husband. See, Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Birr wa ‘l-Ṣīlah wa ‘l-Adab, Bāb Taḥrīm al-Kadhīb wa Bayān mā Yubāḥ minh; Abū Bakr ‘Abd Allāh b. Muḥammad b. Ibrāhīm Ibn Abī Shaybah, *Muṣannaf fī ‘l-Aḥādīth wa ‘l-Āthār*, ed., Kamāl Yūsuf al-Ḥūt, 1st edn. (al-Riyād: Maktabah al-Rushd, 1409 AH), vol. 5, p. 327, Kitāb al-Adab, Bāb Mā Rukhkhīṣ fih min al-Kidhb. However, according to the majority of scholars, what is allowed in these situations is ‘*tawriyah*’ and in what is considered to be the best interest of the community (in case of war), or in the best interest of two persons who have misgivings towards each other leading to conflict and animosity. Telling blatant lies to wife or husband, however, is not permissible. See, Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī*, vol. 5, p. 300; al-Shawkānī, *Nayl al-Awtār*, vol. 7, p. 272; Muḥammad b. Ismā‘īl al-Ṣan‘ānī, *Subul al-Salām* (Cairo: Maṭb‘ah al-Ḥalabī, 1950), vol. 4, p. 202.

Quraysh] and said, “Muḥammad believes that he has asked Banū Qurayzah for that (*za‘am Muḥammad annahū amar Banī Qurayzah bihādihā*.)” Abū Sufyān asked Nu‘aym, “have you really heard Muḥammad said that?” Nu‘aym’s affirmative answer put Abū Sufyān in a dilemma, whether to trust Banū Qurayzah or not, which finally became the cause of nullification of the accord.⁶¹ The Prophet (peace be on him) used the word may be (*fala‘allanā*) giving the whole sentence dual meanings, and it gave the needed results giving the allied forces an impression as if his alliance with Banū Qurayzah is still intact and they must not fully trust Banū Qurayzah.

In another report it is said that the Messenger of Allah (peace be on him) advised Nu‘aym to keep his acceptance of Islam to himself and go back to fight the enemy from within. He told him: “If you remain with us you are only one man. But go back to them and weaken them from within as much as you can because war is ruse.” Nu‘aym implemented this advice very well. He went back to the leaders of Banū Qurayzah (who were living in the outskirts of Madīnah and have been preparing to take part in the war alongside the attacking coalition) and told them that they made a mistake in breaking their peace agreement with the Muslims. He told them that the coalition army would eventually leave and go back to their lands and leave you here in Madīnah to face the wrath of the Muslims. He said therefore I suggest that you refuse to fight on the coalition side until they hand over to you some of their prominent men to insure their good faith. Nu‘aym after convincing the Jews went to Abū Sufyān b. Ḥarb and other Arab leaders and told them that he came to give them advice. He said that the Jews have regretted their betrayal of Muḥammad [peace be on him] and they instead conspired with him to hand over some of your prominent men in order to have them killed as a retribution for their betrayal of their peace agreement with him. He said if the Jews come to you asking for hostages do not give them any.⁶²

61. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 87.

62. See, *ibid.*, vol. 1, pp. 87–88.

On Friday Abū Sufyān sent far the Jews asking them to attack from their positions on Saturday according to our pact because it has been too long. They sent back saying that tomorrow is Saturday and we cannot break our law of Saturday. Moreover, we will not attack unless you send over to us some of your noble men to stay with us as a pledge, to insure your involvement in the war until the end. When Abū Sufyān heard that he said this is what Nu‘aym warned us: The Jews have conspired with Muḥammad [peace be on him] against us. When he refused, the Jews said this is what Nu‘aym warned us: The Arabs are going to withdraw and leave us alone to fight with the Muslims. A dispute broke between the Jews and Arabs and they ended up cursing each other and the coalition broke.⁶³

According to Abū Zakariyyā Yaḥyā b. Sharaf al-Nawawī (d. 676/1300), there is consensus among scholars that ruse is allowed in war as long as it does not lead to breaching a treaty or a pledge,⁶⁴ as the Qur’ān commands, “[A]nd do not break [your] oaths after having [freely] confirmed them.”⁶⁵ According to al-Shaybānī, all the above tactics are lawful in war.⁶⁶ Ruse is also allowed in international humanitarian law. It gives “the use of camouflage, decoys, mock operations and misinformation,” as the typical examples of ruse.⁶⁷

63. See, *ibid.*

64. See, Abū Zakariyyā Yaḥyā b. Sharaf al-Nawawī, *al-Minhāj: Sharḥ Ṣaḥīḥ Muslim bin al-Ḥajjāj*, 2nd edn., 9 vols. (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 1392 AH), vol. 6, p. 45; Abū Muḥammad Muwafaqq al-Dīn ‘Abd Allāh b. Muḥammad Ibn Qudāmah, *al-Muḥḡnī*, 10 vols. (Cairo: Maktabah al-Qāhirah, 1388/1968), vol. 9, p. 218.

65. See, the Qur’ān 16: 91.

66. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 88. He gives another example of ‘*tawriyyah*’ in ordinary life and reports that an old lady asked the Prophet (peace be on him) to pray for her entrance to Paradise (*Jannah*). He humorously said, “no old person will enter the paradise.” Hearing this, she was given to tears. The Prophet (peace be on him) then explained that old people will be turned young before entering paradise, whereupon she was much delighted. See, *ibid.*, vol. 1, pp. 86–87.

67. Article 37(2) of Protocol I of 1977. Article 37(2) states, “Ruse of war is not prohibited. Such ruses are acts which are intended to mislead an adversary or to induce him to act recklessly but which infringe no rule of international law applicable to armed conflict and which are not perfidious because they do not invite the confidence of an adversary with respect to protection under that law. The following are examples of ruses: the use of camouflage, decoys, mock operations and misinformation.” This seems close to a re-writing of the Islamic law.

Some of the same have been practiced in the Muslim military history.

(b) *Perfidy or Treachery*

Perfidy or treachery is strictly prohibited even in warfare by the Prophet (peace be on him) and his successors without any exception. The Prophet (peace be on him) is reported to have reiterated this ban on numerous occasions.⁶⁸ In the eighth year after his migration to Madīnah, he issued commands to his departing army and said, “Fight with the name of Allah and in the path of Allah. Combat those who do not believe in Allah. Fight yet do not cheat, do not break trust, do not mutilate, do not kill minors.”⁶⁹

On another occasion, while instructing the army led by ‘Abd al-Raḥmān b. ‘Awf, he had Bilāl [b. Rabāḥ (d. 20/641)] to hand the flage over to him and said, O son of ‘Awf! Take it [the flage]. Fight you all in the path of Allah and combat those who reject the faith in Allah. Yet never commit breach of trust, nor treachery, nor mutilate anybody nor kill any minor or woman. This is the demand of Allah and the conduct of His Messenger for your guidance.⁷⁰

Abū Jandal b. Suhayl (d. 18/639) fled from the clutches of the polytheists of Makkah and reached the Prophet (peace be on him) and his companions camped at *al-Hudaybiyah*. However, the Prophet (peace be on him) returned him to his father [Suhayl b. ‘Amr (d. 18/639)] in compliance with the terms of the covenant which the Prophet (peace be on him) had just concluded with the Quraysh. Abū Jandal, while unwillingly walking in the custody of his father shouted with the loudest he could questioning the Muslims whether they would return him to the polytheists who would torture him to renounce Islam. Thereupon the Prophet (peace be on him) politely

68. See, for details, Muhammad Munir, “Suicide Attacks and Islamic Law,” *International Review of the Red Cross*, vol. 90, no. 1 (2008), pp. 82–84; ‘Abd al-Jalil, *Shu‘ab al-Iman* (Istanbul: MS. Bashir Agha, No. 366), p. 558.

69. See, al-Shawkānī, *Nayl al-Awtār*, vol. 7, p. 246.

70. See, ‘Abd al-Malik Ibn Hishām, *al-Sirah al-Nabawiyah*, eds., Muṣṭafā al-Saqā, Ibrāhīm al-Abyārī and ‘Abd al-Ḥafīz Shalabī (Cairo: Muṣṭafā al-Bābī, 1375/1955), vol. 2, p. 632.

advised him, “Treachery is not good for us, even to save a Muslim from the jaws of polytheists.”⁷¹ The instructions of ‘Alī b. Abī Ṭālib to his soldiers during his war with Mu‘āwiyah b. Abī Sufyān (d. 60/680) are very relevant here. He said,

If you defeat them, do not kill a man in flight, do not finish off a wounded man, do not uncover a pudendum, or mutilate the dead, do not rip open a curtain or enter a house without permission, do not take any of their property, and do not torture or harm their women even though they may insult your leaders.⁷²

Muslim commanders as well as individual soldiers can give pledge to an enemy soldier that he will be given protection. Should this be given, then that pledge is binding on all Muslims and no derogation is possible. The Prophet (peace be on him) has declared any violator of such a pledge to be a hypocrite.⁷³

At the time of ‘Umar b. al-Khaṭṭāb (40 BH–23 AH/584–644), the Second Rightly Guided Caliph (13–23/634–644), during a war, a Persian soldier took shelter at the top of a tree. A Muslim soldier told him in Persian cum Arabic “*Mitrasī*” (don’t be afraid). His adversary thought that he was given protection and came down. Sadly, he was killed by the Muslim soldier. The matter was reported to the Caliph, who warned the commander, saying “[A]s Allah is my witness, if I hear anyone has done this I shall cut his neck.”⁷⁴

71. See, Aḥmad b. Ḥanbal al-Shaybānī, *al-Musnad* (Cairo: Mu’asasah Qurṭubah, n. d.), vol. 4, p. 323, Kitāb Musnad al-Kūfiyyin, Bāb Ḥadīth Miswar b. Makhramah; Ibn Hishām, *al-Sirah al-Nabawiyah*, vol. 2, pp. 318–319.

72. Sayyid Razī, *Nahj al-Balāghah*, trans. and ed., Muftī Ja’far Ḥusain (Lahore: al-M’irāj Kampanī, n.d.), p. 573.

73. He also said that “on the day of resurrection anyone who has breached his pledge will be exposed by the hoisting of a flag and the size of the flag will be according to his treachery. And remember that the biggest treachery is the one carried out by the leader of the nation.” Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa ’l-Siyar, Bāb Taḥrīm al-Ghadr.

74. See, Badr al-Dīn Abū Muḥammad Maḥmūd b. Aḥad al-‘Aynī, *Umdah al-Qārī Sharḥ Ṣaḥīḥ al-Bukhārī* (Cairo: Idārah al-Ṭabā’ah al-Muniriyyah, n.d.), vol. 15, p. 94. According to al-Shaybānī, ‘Umar wrote to his commander in Iraq that if anyone gave pledge to an enemy soldier by using, *inter alia*, the Persian words ‘*mitrasī*,’ then these words are binding. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 199.

It becomes obvious from the above discussion that Muslims are to strictly observe the terms of a treaty and not to violate it, even if the treaty is between the Muslims and their opponents. It is reported that the Caliph Mu'āwiyah b. Abī Sufyān (r. 41–60/661–680) was once preparing his army to attack the neighbouring Roman Empire, although the peace treaty between the two was still in force, for he wanted to attack as soon as it had expired. 'Amr b. 'Anbasah, a companion of the Prophet (peace be on him), considered it treachery to prepare for an attack without prior information to the Romans. He therefore hastened to the Caliph shouting, "Allah is great, Allah is great, we should fulfil the pledge, we should not contravene it." Upon Caliph's query he replied that he had heard the Prophet (peace be on him) saying:

If someone has an agreement with another community then there should be no [unilateral] alteration or change in it till its time is over. And if there is risk of a breach by the other side then give them notice of termination of the agreement on reciprocal basis.⁷⁵

The Qur'ān commands, "Or, if thou hast reason to fear treachery from people [with whom] thou hast made a covenant, cast it back at them in an equitable manner: for, verily, Allah does not love the treacherous."⁷⁶ Al-Shaybānī considers it perfidy if a group of Muslims entered the enemy's country feigning to be the representatives of the Caliph by showing forged documents or without showing them. And if they were given protection, they must fulfil their obligations under that protection. Similarly, if Muslims entered pretending to be businessmen while planning to murder [someone], they shall not kill because they have been granted quarter by the enemy.⁷⁷

75. See, Abū 'Īsā Muḥammad b. 'Īsā al-Tirmidhī, *Sunan al-Tirmidhī*, Kitāb Abwāb al-Siyar 'an Rasūl Allāh Ṣallā Allāh 'alayh wa Sallam, Bāb Mā Jā' fi 'l-Ghadr. See also, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 185. Abū Bakr Muḥammad b. Aḥmad al-Sarakhsī (d. 490/1096) says, it means that any act that resembles treachery in letter or spirit must be avoided. See, *ibid*.

76. See, the Qur'ān 8: 58.

77. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 2, pp. 66–67.

To sum up this discussion ruse is allowed in war but treachery or perfidy is strictly prohibited.

Prohibition of Mutilation of Bodies

Mutilation of bodies is strictly prohibited in Islamic *jus in bello*. Mutilation includes the cutting of body parts such as fingers, ears, nose, private parts, cutting the body itself as well as cutting the head and carrying them on the lances. As mentioned above it was a *jāhiliyyah* practice. After the battle of Uḥud was over, the Prophet (peace be on him) went out seeking his uncle Ḥamzah and found his slain body without ears and nose, his stomach ripped open and the liver missing. The Prophet (peace be on him) was gravely hurt and became furious over the cruelty against his uncle.⁷⁸ In the heat of passion and grief, the Prophet (peace be on him) expressed feelings of revenge, stating: “If Allah gives me victory over them [Quraysh], I will mutilate thirty of their men.”⁷⁹ Responding to the Prophet (peace be on him)’s grief and anger, other Muslims expressed similar sentiments for vengeful mutilation. It is also reported that Muslims had sworn to avenge the mutilation by many folds should they overwhelm the infidels. However, when cooler moments were restored, no decree for mutilation was issued. Allah revealed to the Prophet (peace be on him):

Hence, if you have to respond to an attack, respond only to the extent of the attack leveled against you; but to bear yourselves with patience is indeed far better for [you, since Allah is with] those who are patient in adversity. Endure, then with patience—always remembering that it is none but Allah who gives thee the strength to endure adversity.⁸⁰

The Prophet (peace be on him) pardoned all those infidels who were

78. Hind bint ‘Utbah (d. 14/635)—the wife of Abū Sufyān—and other infidel women mutilated the dead bodies of Muslim martyrs; made a necklace and presented it to Waḥshī—the killer of Ḥamzah—the Prophet’s uncle, as a reward for killing him (Ḥamzah). She even took out Ḥamzah’s liver and tried to chew it up but vomited. See, Ibn Ḥajar al-‘Asqalānī, *Fatḥ al-Bārī*, vol. 7, p. 352.

79. See, Guillaume, *The Life of Muhammad: A Translation of Ibn Ishaq’s Sirat Rasul Allah*, p. 387.

80. See, the Qur’ān 16: 126–127.

involved in this heinous crime when Muslims conquered Makkah. Moreover, he strictly prohibited mutilation in many of his reported instructions to the commanders and individual Muslims.⁸¹ Muslim jurists are unanimous on this issue.⁸² The Prophet (peace be on him) used to condemn mutilation to the extent that he is reported to have said: “Never should you mutilate a dead body, even that of a rabid dog.”⁸³

‘Umar b. al-Khaṭṭāb, the second Caliph, warned the commanders of the Muslim army saying: “... do not mutilate when you have power to do so. Do not commit excess when you triumph. Do not kill an old man or a woman or a minor; rather try to avoid them at the time of encounter of the two armies, and in the heat of victory, and at the time of expected attacks.”⁸⁴

According to al-Shaybānī, Abū Bakr, the first Caliph, condemned ‘Uqbah b. ‘Āmir al-Juhanī (d. 58/677), when he presented him with the head of an enemy leader, whereupon ‘Uqbah said this is what the Persians and Romans do to us, he replied, “But do you follow the tradition of the Persians and the Romans?”⁸⁵ He prohibited this

81. See, Muḥammad b. Ismā‘īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Maẓālim wa ‘l-Ghaṣab, Bāb al-Nuhbā bi ghayr Idhn Ṣāḥibih; Muslim b. al-Ḥajjāj, *Ṣaḥīḥ Muslim*, Kitāb al-Jihād wa ‘l-Siyar, Bāb Ta’mir al-Imām al-Umarā’ ‘ala ‘l-Bu‘ūth wa Waṣīyyatih Iyyāhum bi Ādāb al-Ghazw wa Ghayrihā; Ibn Ḥajar al-‘Asqalānī, *Fath al-Bārī*, vol. 5, p. 120.

82. See, al-Ṣan‘ānī, *Subul al-Salām*, vol. 4, p. 46; Maḥmūd b. ‘Umar al-Zamaḥsharī, *al-Kashshāf ‘an Wujūh al-Tanzīl wa ‘Uyūn al-Aqāwīl fī Wujūh al-Ta’wīl* (Cairo: Maṭba‘ah al-Ḥalabī, 1948), vol. 2, p. 503; Ibn Qudāmah, *Al-Mughnī*, vol. 9, pp. 420–421; al-Ḥillī, *Sharḥ al-Islām*, vol. 1, p. 246.

83. See, Jamāl al-Dīn Abū Muḥammad ‘Abd Allāh b. Yūsuf al-Zayla‘ī, *Naṣb al-Rāyah li Aḥādīth al-Hidāyah ma‘ Ḥāshiyah Bughiyah al-Alma‘ī fī Takhrīj al-Zayla‘ī*, ed., Muḥammad ‘Awwāmah, 1st edn. (Beirut: Mu‘asasah al-Rayān, 1997), vol. 3, p. 120. The same is reported from Caliph ‘Alī b. Abī Ṭālib. See, Sulaymān b. Aḥmad al-Ṭabarānī, *al-Mu‘jam al-Kabīr*, vol. 1, p. 97, Kitāb Nisbah ‘Alī b. Abī Ṭālib Raḍī Allāh ‘anh, Bāb Sinn ‘Alī b. Abī Ṭālib wa Wafātuh Raḍī Allāh ‘anh.

84. See, Abū Muḥammad ‘Abd Allāh b. Muslim b. Qutaybah al-Dīnawarī, *‘Uyūn al-Akbār* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1418 AH), vol. 1, p. 185.

85. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 79. In *al-Mabsūt*, Abū Bakr’s statement has been reported in these words, “We are neither Romans nor Persians. For us, the Book of Allah and the model of the Prophet (peace be on him) are enough.” Shams al-A‘immah Abū Bakr Muḥammad b. Abī Sahl al-Sarkhasī, *al-Mabsūt*, ed., Khalīl Muḥyi ‘l-Dīn al-Mīs (Beirut: Dār al-Fikr, 1421/2000), vol. 10, p. 227.

practice because he regarded it as a practice of *jāhiliyyah*. He therefore issued instructions that he should not be brought in heads; he should only be informed [of the victory].⁸⁶ According to the Ḥanafī and Mālikī jurists, enemy's dead bodies are ought to be buried.⁸⁷ Similarly, delivering *coup de grace* to the wounded is also prohibited in Islamic law.⁸⁸

Before concluding this discussion, we raise another very important question. If mutilation of dead bodies is prohibited, then what about killing someone by disfiguring him or cutting him into pieces? This is what happens in suicide attacks as well as in using weapons of mass-destruction when most of the victims are not only killed but also disfigured or even burnt and inhaled. By using analogy we can assert that this comes under mutilation and is strictly prohibited.⁸⁹ Moreover, verdict of the Prophet (peace be on him), “fairness is mandatory. If you kill, do kill in the best of the manners,” is a direct provision in this matter.⁹⁰ It concludes that mutilation of dead bodies as well as killing by mutilation is strictly prohibited in Islamic law.

86. Abū Bakr al-Sarkhasī in his commentary on this issue, states that Abū Bakr prohibited severance of the heads of the enemy leaders because it is mutilation. See, *ibid.* Both al-Shaybānī and al-Sarkhasī mention that the Prophet (peace be on him) was brought in the head of Abū Jahl ‘Amr b. Hishām (d. 02/ 624)—his worst enemy—when he was killed in Badr. See, *ibid.*, 80. But this is the only incident on record. It seems that the total prohibition came later on.

87. See, al-Shaybānī, *Sharḥ al-Siyar al-Kabīr*, vol. 1, p. 79; also see, Muḥammad b. Aḥmad b. ‘Arafah al-Dusūqī, *Ḥāshiyah al-Dusūqī ‘alā al-Sharḥ al-Kabīr li ‘l- Dardīr* (Beirut: Dār al-Fikr, nd.), vol. 1, p. 430; al-Qurṭubī, *al-Jāmi‘ li Ahkām al-Qur’ān*, vol. 6, p. 146; Abū Bakr Muḥammad b. ‘Abd Allāh Ibn al-‘Arabī, *Aḥkām al-Qur’ān*, (Cairo: Maṭb‘ah al-Ḥalabī, 1957), vol. 2, p. 587; Waḥbah al-Zuhaylī, *Āthār al-Ḥarb fī Fiqh al-Islāmī*, 4th edn. (Dimishq: Dār al-Fikr, 1992), p. 487.

88. See, Abū Ḥāmid ‘Izz al-Dīn b. Hibah Allāh b. Muḥammad b. Muḥammad b. Abī ‘l-Ḥadīd, *Sharḥ Nahj al-Balāghah*, ed., Muḥammad ‘Abd al-Karīm al-Namrī, 20 vols. (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1418/1998), vol. 1, p. 140.

89. Even ordinary attacks in which bombs are used bodies are mutilated. The same is true about missiles. And of course, the same is true of other weapons of mass destruction, nuclear bombs, dazi-cutters, carpet bombing, air attacks, drone attacks, etc. How, then the suicide attacks and use of bombs can be justified, let alone missiles and WMDs?

90. See, Muḥammad Nāṣir al-Dīn al-Albānī, *Irwa’ al-Ghalīl fī Takhrīj Ahādīth Manār al-Sabīl*, 2nd edn. (Beirut: al-Maktab al-Islāmī, 1985), vol. 7, p. 293.

Prohibition of Rumpus

Rumpus, looting and disturbing people on the way to destination, making noises and occupying the whole passage etc were practiced in *jāhiliyyah*. The Prophet (peace be on him) prohibited all such practices. It is reported that on one occasion complaint was made to the Prophet (peace be on him) about rumpus of some soldiers. He announced that anyone who occupied the whole passage [with the exclusion of passers by] or looted people, would not have the reward of *jihād*.⁹¹ On another occasion he described the spreading of soldiers in valleys a satanic act.⁹²

Raising voices and making loud noises was a *jāhiliyyah* practice. The Prophet (peace be on him) forbade from it also. It is reported by Abū Mūsā al-Ash‘arī (d. 41/662) that once we were with the Prophet (peace be on him) on an expedition. We were rejoicing with proclamation of *lā ilāh illā Allāh (hallalnā)* and *Allāh Akbar (kabbarnā)* whenever we would reach a valley. Little by little our voices became loud and loud. On this the Prophet (peace be on him) said, “O people, gentle yourselves, [do not raise your voices], the One you are calling on is nor deaf nor dumb. He is with you. He is All Listening and He is Very Near. His Name is All Blessing and His Majesty is Exalted.”⁹³

Prohibition of killing PoWs and Non-combatants

The issue of the protection of PoWs have have been dealt with in detail somewhere else by the present author where it was concluded that the general rule is that they shall not be executed, on the contrary they ought to be set free or exchanged. Moreover, three or four PoWs who were executed through out the campaigns of the Prophet (peace be on him) were exceptional cases because of the heinous crimes they had committed against the Islamic state before

91. See, Abū Dāwūd Sulaymān b. al-Ash‘ath al-Sijistānī, *Sunan Abī Dāwūd*, Kitāb al-Jihād, Bāb Mā Yu‘mar min Inqimām al-‘Askar wa Sa‘atih.

92. See, *ibid*; Aḥmad b. Shu‘ayb al-Nasā‘ī, *Sunan al-Nasā‘ī al-Kubrā*, Kitāb al-Siyar, Bāb al-Nahyy ‘an al-Tafarruq fi ‘l-Sha‘b wa ‘l-Awdiyah.

93. See, Muḥammad b. Ismā‘īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Jihād wa al-Siyar, Bāb Mā Yukrah min Raf‘ al-Ṣawt fi ‘l-Takbīr.

their captivity.⁹⁴ A detailed treatment of the issue of PoWs is beyond the scope of this paper and only a passing remark would suffice. The Prophet (peace be on him) instructed his army while conquering Makkah, “Slay no wounded person, pursue no *mudbir* (who turns his back from the battle and flees), execute no prisoner; and whosoever closes his door is safe.”⁹⁵

Non-combatants—women, children, servants, sick, infirm, elderly, farmers, priests, tourists and similar others are not to be killed.⁹⁶ It must be noted that wars at that time were different from wars today. In the beginning of Islamic history all able bodied men would participate in war from both sides. ‘Umar organised regular armies and all the people would not participate in war. Today, all those persons who are not in the army, that is, regular members or reservists, who do not fight along side the army shall be considered as civilians and shall have non-combatant immunity. When the Prophet (peace be on him) was informed of a slain woman in one of the battles he condemningly said, “She certainly could not have been fighting.” Then he sent a person to Khālid b. al-Walīd, who was leading the advanced guard, to bade him, “do not kill any woman nor a servant.”⁹⁷ What is important to note is the cause [*illah*] of killing someone in war is being a combatant. Thus, all those who do not fight, cannot be killed.

Genocide in Modern and Islamic International Law

An important issue that needs attention in this work is what are the teachings of the Prophet (peace be on him) about genocide and war crimes. This section explores what is known, in the laws of armed conflict, as genocide and war crimes, dealing with the questions,

94. See for details, Muhammad Munir, “The Protection of Prisoners of War in Islamic Law,” forthcoming.

95. See, Abū al-‘Abbās Aḥmad b. Yaḥyā b. Jābir al-Balādhurī, *Futūḥ al-Buldān* (Beirut: Dār al-Hilāl, 1988), p. 49. Philip Khuri Hitti translated *Futūḥ al-Buldān* in English which was published by Columbia University, New York in 1916.

96. See, notes, 37, 46–49, above; Muhammad Munir, “The Protection of Civilians,” forthcoming.

97. See, Abū Dāwūd Sulaymān b. al-Ash‘ath al-Sijistānī, *Sunan Abī Dāwūd*, Kitāb al-Jihād, Bāb fī Qatl al-Nisā’; also see, al-Shawkānī, *Nayl al-Awṭār*, vol. 7, p. 236.

like: whether collective punishment of people is allowed in Islam? Whether war crimes or genocide were ever committed in Islamic military history?

Genocide under Modern International Law

The term genocide was coined by a Polish scholar Raphaël Lemkin (1900–1959), who served in the US War Department. The term 'genocide' is derived from the word *genos*, meaning 'race' in Greek, and the Latin word for 'killing,' *cide*.⁹⁸ Its legal definition was given in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide,⁹⁹ which was enforced in 1951 and is today part of customary international law. However, the 1948 definition of genocide is reproduced in verbatim in the Statutes of International Criminal Courts.¹⁰⁰ For the crime of genocide to be committed it is not essential that an armed conflict must exist.

The definition of genocide includes a list of acts, i.e. "killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group."¹⁰¹ The definition of genocide has both a physical element—comprising certain enumerated acts, such as killing members of a racial group—and a mental element—those acts

98. See, Raphaël Lemkin, *Axis Rule in Occupied Europe* (Washington: Carnegie Endowment for International Peace, 1944), p. 674; Dianne F. Orentlicher, "Genocide" in Roy Gutman and David Rieff, eds., *Crimes of War: What the Public should Know* (New York & London: W. W. Norton & Co., 1999), p. 154.

99. The text of the Convention is available online at: <<http://www.unhcr.ch/htm/instinst.htm>>, (last accessed 27/01/2010).

100. See, UN Statute of the ICTY; UN Statute of the ICTR; The International Criminal Court or ICC.

101. The 1948 Convention also makes other acts punishable. These are: conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide. The definition does not include political or economic groups. Such groups are considered 'unstable or fluctuating.' Moreover, it also excludes cultural genocide—destroying a group through forcible assimilation into the dominant culture.

must have been committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious, group as such.¹⁰² Thus, in many cases it is not the nature of the act itself but the intention behind the act (*mens rea*) which includes it in genocide. The intention cannot be easily identified. This is the reason for too few convictions.

In the recent past the wholesale massacre of Hutus by Tutsis in Burundi in 1972, the Khmer Rouge campaign of extermination in the 1970s and the 1988 Anfāl campaign against Iraqi Kurds, are considered by scholars to qualify as genocide.¹⁰³ The Holocaust and the massacre of Bosnian Muslims by Nazis and Fascists,¹⁰⁴ the ethnic cleansing of Muslims by the Serbs in Bosnia and Herzegovina in 1991–1992,¹⁰⁵ and the 1994 Rwandan systematic killings, are examples that more clearly qualify the definition of genocide.¹⁰⁶

102. The specific nature of the crime of genocide lies in the specific intention behind its perpetration. The acts committed may, in fact, be ‘straightforward’ killings, acts of torture, rape or crimes against humanity, but their distinctive feature is that the specific intention of the perpetrators of these acts is not to kill or ill-treat one or more individuals but to annihilate the group to which those individuals belong. Therefore, it is intention which distinguishes genocide from murder or crimes against humanity. See, Marco Sassoli and Antoine A. Bouvier, *How Does Law Protect in War?* (Geneva: ICRC, 2006), vol. 1, p. 310.

103. See, Orentlicher, “Genocide,” pp. 156–157.

104. Authors in general have focused on the genocide committed by the Nazis against the Jews. Genocide committed against the Bosnian Muslims has been largely unnoticed. It is estimated that some 100,000 Muslims were killed by the Fascist and others collaborating with Nazi Germany. See, Fikret Karcic, “Muslim Legal Religious Institutions in Yugoslavia,” *IJU Law Journal*, vol. 2, no. 1 (1992), p. 32.

105. The Bosnian Muslims were the victims of genocide once again in 1991–92. The ICJ asserted this on 13 September 1993 that genocide is committed by the Serbs against the Muslims. See, M. Shokrī El-Daqqāq, “Genocide from the Perspective of International and Islamic Law” in M. A. Haleem, A. O. Sherif and Kate Daniels, eds., *Criminal Justice in Islam: Judicial Procedure in the Shari’a* (New York & London: I. B. Tauris, 2003), p. 136.

106. Orentlicher argues that despite the obligation of states to take action against genocide, to the contrary, when those same crimes were being committed and portrayed in the media—legal experts in the US administration were asked, in the words of a former State Department lawyer, “to perform legal gymnastics to avoid calling this genocide.” And when Rwandan Hutus carried out the wholesale massacre of Tutsis, the Clinton administration instructed its spokespeople not to describe what was happening as genocide lest this “inflare public calls for action,” according to the New York Times. See, Orentlicher, “Genocide,” p. 153.

Genocide and the Islamic Law

Acts of genocide are strictly condemned in Islam, and are regarded as heinous crimes deserving severe punishment,¹⁰⁷ both in this world and in the Hereafter. The Qur'ān indirectly refers to the genocidal act of mass killing when it counts Allah's favours on the children of Israel condemning the heinous acts of the Pharaoh of Egypt [Ramses II (r. 1279–1213 BC)],¹⁰⁸ like, the massacre of their male babies, saying, "And [remember the time] when We saved you from Pharaoh's people, who afflicted you with cruel suffering, slaughtering your sons and sparing [only] your women."¹⁰⁹ Under Islamic law only the person who has committed a crime can be punished if found guilty and not anyone else. The Qur'ān says that "no burden bearer bears the burden of another,"¹¹⁰ and that "Allah lays not upon anyone more than he has capacity for; what he has gained stands to his credit and what he has piled up stands against him."¹¹¹ In addition, the Qur'ān condemns every person who, "whenever prevails, goes about the earth spreading corruption and destroying [man's] tilth and progeny," and Allah does not like the disorder and corruption.¹¹²

As discussed above, according to the Genocide Convention, the crime of genocide is committed intentionally to destroy an ethnic group, either by killing the members of the group or causing serious harm thereto or persecuting them through other acts. Islamic law strictly prohibits persecution and counts any genocidal acts

107. See, El-Daqāq, "Genocide from the Perspective of International and Islamic Law," pp. 131–145.

108. See, M. Hamidullah, "The Name of the Pharaoh Who Died by Drowning," *Islamic and the Modern Age* (August 1981), pp. 151–160. Also see, L. Fatoohi and S. Al-Dargazelli, *History Testifies to the Infallibility of the Qur'an: Early History of Children of Israel* (Delhi: Adam Publishers & Distributors, 1999), pp. 94–155. M S M Saifullah, 'Abdullah David and Mohammad Ghoniem, "The Identification of Pharaoh during the Time of Moses," available online on website of Islamic Awareness, at: <<http://www.islamic-awareness.org/Quran/Contrad/External/mosespharaoh.html>>.

109. See, the Qur'ān 2: 49.

110. See, the Qur'ān 53: 38.

111. See, the Qur'ān 2: 286.

112. See, the Qur'ān 2: 205.

committed against ethnic groups to be criminal and guarantees protection to all ethnic groups under the jurisdiction of the Islamic state. As such, if a Muslim citizen kills a member of an ethnic group, Islamic law imposes death penalty on the murderer.¹¹³ The Qur'ān only allows lawful execution of a person and strictly prohibits other acts of homicide. The Qur'ān says:

[i]f anyone slays a human being unless it be [in punishment] for murder or for spreading corruption on earth—it shall be as though he had slain all mankind; whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind.¹¹⁴

According to Abū Bakr Aḥmad b. 'Alī al-Razī al-Jaṣṣās (d. 370/981), the expression “[I]t shall be as though he had slain all mankind” has several interpretations. Firstly, it tells about the gravity of the crime; secondly, since the murderer has laid down a very bad tradition that other people will follow, he is like an accomplice to all such murders; thirdly, the entire community has the responsibility to help the victim's family to get retribution.¹¹⁵ In this sense, the murderer has committed a crime against the society, which is represented by the state. Thus, it is the state's duty to prosecute him and give him due punishment. If the killer intended to kill an entire group but was able to kill only one member of the same, he would be guilty of genocide. This qualifies the element of intent present in the crime of genocide. Accordingly, acts of genocide are strictly condemned in Islam, and are regarded as grave crimes for which there is severe punishment in this world and in the Hereafter.¹¹⁶

113. This is according to the Ḥanafī school of thought. See, Kamāl al-Dīn Muḥammad b. 'Abd al-Wāḥid al-Sīwāsī al-Ma'rūf bi Ibn al-Humām, *Fath al-Qadīr*, 10 vols. (Beirut: Dār al-Fikr, n.d.), vol. 1, p. 206.

114. See, the Qur'ān 5: 32. Muḥammad Asad (1318–1412/1900–1992) while commenting on this *āyah* opines that the expression “We have ordained unto the children of Israel” does not, of course, detract from the universal validity of this moral: it refers merely to its earliest enunciation. See, Asad, *The Message of the Qur'ān*, p. 147, n. 40.

115. See, Abū Bakr Aḥmad b. 'Alī al-Razī al-Jaṣṣās, *Aḥkām al-Qur'ān*, ed., Sidqī Muḥammad Jamīl (Beirut: Dār al-Fikr, 2001), vol. 2, p. 569.

116. See, Muḥammad Munīr, *Aḥkām al-Madaniyyīn fī al-Ḥarb: Dirāsah Muqāranah bayn al-Fiqh al-Islamī wa al-Qānūn al-Dūwalī al-Insānī* (*Non-combatant Immunity in Islamic Law and International Humanitarian Law*:

The Qur'ān is categorically against any superiority of a human being over another based on race, language, colour, status, age or gender.

The Qur'ān says,

O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you to Allah is the one who is most deeply conscious of Him. Behold, Allah is all-knowing, all-aware.¹¹⁷

The Sermon of the Prophet (peace be on him) at occasion of the *Hajj* he led in last year of his life, included this clarion call to humanity:

O people remember that your Creator and Sustainer (*Rabb*) is One. And your Father is one. An Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also a black has no superiority over white, nor does a white have any superiority over a black, except by piety and good actions. Indeed the best among you is the one with the best character.¹¹⁸

The Qur'ān also enjoins:

O You who have attained to faith! Be ever steadfast in your devotion to Allah, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just: this is closest to being Allah-conscious. And remain conscious of Allah: verily, Allah is aware of all that you do.¹¹⁹

Genocide is so strictly prohibited in Islam that the Prophet (peace be on him) did not approve it even of dogs. It is reported that he has

A Comparative Study), unpublished LLM thesis submitted to the Faculty of Shari'ah & Law, International Islamic University, Islamabad, 1996, pp. 143–150.

117. See, the Qur'ān 49: 13.

118. See, Ahmad b. Hanbal al-Shaybānī, *al-Musnad*, Kitāb Musnad Aḥādīth Rijāl min Aṣḥāb al-Nabiyy Ṣallā Allāh 'alayh wa Sallam, Bāb Ḥadīth Rajul min Aṣḥāb al-Nabiyy Ṣallā Allāh 'alayh wa Sallam; Abū Bakr Ahmad b. al-Ḥusayn al-Bayhaqī, *Shu'ab al-Īmān*, ed., Muḥammad al-Sa'īd Bisayūnī Zaghlūl (Beirut: Dār al-Kutub al-'Ilmiyyah, 1410 AH), vol. 7, p. 132, al-Rābi' wa 'l-Thalāthūn min Shu'ab al-Īmān wa huw Bāb Fī Ḥifz al-Lisān 'ammā lā Yaḥtāj Ilayh, Faṣl Wa mim mā Yajib Ḥifz al-Lisān min al-Fakhr bi 'l-Ābā' wa Khuṣūṣan bi 'l-Jahiliyyah wa 'l-Ta'zīm bihim wa Dhālik lā Yaḥill.

119. See, the Qur'ān 5: 8.

said, “[I]f dogs would not constitute a community [specie] from the communities [species], I would have ordered they be slain [as a whole], you can only kill [of them] the brutish black.”¹²⁰ Abū Hurayrah reports that the Prophet (peace be on him) said, “An ant bit a Prophet whereupon he ordered the ant hole to be burnt. Whereupon Allah cautioned him asking, ‘if an ant bites you, would you burn a whole community of ants who sing the praise of Allah?’”¹²¹ If genocide of dogs and ants is not allowed in Islam, then how could one think of Islam to approve of it with human beings?¹²² Humans, who are described by Allah as follows:

Now, indeed, We have conferred dignity on the children of Adam, and borne them over land and sea, and provided for them sustenance out of the good things of life, and favoured them far above most of Our creation.¹²³

A Muslim combatant is also prohibited to annihilate the enemy, threaten them with annihilation, or deny them the right to surrender. It has never been reported that any people were killed as a group by a Muslim army after the defeat of the enemy. Muslims are commanded to incline to peace if the enemy inclines to it, and are prohibited from killing an enemy who withdraws from battle, surrenders his weapon and person.¹²⁴

Starvation of enemy population is also not permissible in Islam. In the sixth year of the Hijrah, Banū Ḥanīfah—the people of Yamāmah stopped the shipment of food grains to Makkah because of Makkan’s maltreatment of their tribal chief Thumāmah b. Uthāl (d. 13/634), while he was on ‘*Umrah* in Makkah. The inhabitants of Makkah

120. See, Aḥmad b. Ḥanbal al-Shaybānī, *al-Musnad*, Kitāb Musnad al-Madaniyyin, Bāb Ḥadīth ‘Abd Allāh b. Muḡhaffāl.

121. See, Abū Muḡammad ‘Abd al-‘Azīm b. ‘Abd al-Qawī al-Mundharī, *al-Tarḡhīb wa ‘l-Tarḡīb min Aḡādīth al-Rasūl*, ed., Ibrāhīm Shams al-Dīn (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1417 AH), vol. 3, p. 385.

122. For details see, Muḡammad Munīr, *Aḡkām al-Madaniyyin fī al-Ḥarb: Dirāsah Muqārānah bayn al-Fiqh al-Islāmī wa al-Qānūn al-Dūwalī al-Insānī*, pp. 121–123.

123. See, the Qur’ān 17: 70. Rather, a human is made superior to angels. See, the Qur’ān 2: 30–34.

124. See, the Qur’ān 4: 90; 8: 61.

depended on the supply of food grains from Yamāmah. The Prophet (peace be on him) initially did not object the action of Thumāmah b. Uthāl. It started causing hardship to the inhabitants of Makkah, however, which gradually kept on intensifying and soon Makkah was facing a severe drought. The Makkans sent an emissary to the Prophet (peace be on him), who told him on their behalf that he had always advocated love, compassion and charity and that the people of Makkah were on the verge of starvation. The Prophet (peace be on him) immediately dispatched a letter to Thumāmah b. Uthāl, asking him to lift the blockade and restore the supply of food grains to Makkans,¹²⁵ though these were the years of bitter conflict between the Makkans and the Prophet (peace be on him). During the drought in Makkah not only that the Prophet Muḥammad (peace be on him) had his allies to lift the blockade and restore the supply of food grains to Makkans, he further sent ripe dates and 500 gold coins in financial aid to purchase food for the poor and destitute people in Makkah.¹²⁶ Moreover, since genocide is the denial of the right to existence of an entire human group, on the basis of its particular ethnic identity, it would be interesting to see how Islam deals with ethnic groups. Islamic law contains explicit rules which declare the principle of equality to be mandatory. The Qur'ān, as mentioned above also, declares, "O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you to Allah is the one who is most deeply conscious of Him. Behold, Allah is all-Knowing, all-Aware."¹²⁷

The Prophet (peace be on him) emphasised this principle, in his famous sermon on mount 'Arafāt, when he said, "O, men, verily your Deity is one, and your father is one. No Arab is superior to a non-Arab except in righteousness, nor black to red or red to black except in righteousness."¹²⁸ What is crystal clear from the above is

125. See for details, 'Abd al-Malik Ibn Hishām, *al-Sīrah al-Nabawīyyah*, vol. 2, p. 639.

126. See, Asim Koksal, *History of Islam* (Istanbul: 1981), vol. 14, p. 304.

127. See, the Qur'ān 49: 13. It means that this equality of biological origin is reflected in the equality of the human dignity common to all.

128. See, Aḥmad b. Ḥanbal al-Shaybānī, *al-Musnad*, Kitāb Musnad Aḥādīth Rijāl min Aṣḥāb al-Nabīyy

that Allah and his Messenger have condemned all aspects of discrimination on the grounds of race or colour.

Throughout Islamic history, non-Muslims enjoyed absolute protection and their lives and properties were deemed to be as sacred as those of Muslims. It was the duty of the Islamic state to protect them from possible attacks and molestation. The Prophet (peace be on him) and his successors had issued several charters to the *dhimmīs* [non-Muslim citizens of Muslim state] of Jarash, Khaybar, Najran and other places in which they secured the protection of their lives, property and beliefs.¹²⁹ The Muslims rulers of India treated their non-Muslim subjects likewise in India for centuries. It is undeniable to say that the Muslim world has historically showed far greater tolerance and humanity in its treatment of religious minorities than has the Christian West.¹³⁰ The treatment of the Jewish minority in Muslim societies stands out as fair and enlightened, especially when compared to the dismal record of Christian Europe's persecution of Jews over the centuries.¹³¹

To conclude this section, one final question needs to be answered. Where should we place the crime of genocide in the scheme of Islamic criminal system? Can it be placed under *ḥirābah*, the punishment for which is mentioned in the Qur'ān 5: 33? This would make it a *ḥadd* offence. It may be called *fasād fi 'l-ard* [spreading corruption on the earth] and brought in under the doctrine of *siyāsah*.¹³²

Ṣallā Allāh 'alayh wa Sallam, Bāb Ḥadīth Rajul min Aṣḥāb al-Nabiyy Ṣallā Allāh 'alayh wa Sallam Ba'd Bāb Ḥadīth Shaykh min Aṣḥāb al-Nabiyy Ṣallā Allāh 'alayh wa Sallam; Nūr al-Dīn 'Alī b. Abī Bakr b. Sulaymān al-Haythamī, *Majma' al-Zawā'id wa Manba' al-Fawā'id*, ed., Ḥassām al-Dīn al-Qudṣī (Beirut: Maktabah al-Qudṣī, 1414/1994), vol. 3, p. 266.

129. For details of the charter granted to the people of Najran, see, Aḥmad b. Yaḥyā b. Jābir al-Balādhurī, *Futūḥ al-Buldān*, pp. 71–72.

130. See, El-Daqāq, "Genocide from the Perspective of International and Islamic Law," p. 138.

131. *Ibid.*, see also, Bernard Lewis, *The Jews of Islam* (Princeton: Princeton University Press, 1984), p. 83.

132. Combating *fasād fi 'l-ard* is one of the cherished objectives of *Jihād*. See, the Qur'ān 2: 251 and 22: 40.

Are War Crimes Committed in Early Islamic Military History?

It is extremely difficult if not impossible to find campaigns of the Prophet (peace be on him) or his successors in which, what is known as war crimes in IHL parlance, are committed. There are, however, some rare incidents in which Muslim soldiers seem to have committed certain mistakes because of some misunderstanding of the language or miscommunication or some mistaken interpretation of the situation.

It is reported that a certain soldier from the tribe of Banū Khuzā'ah, during the conquest of Makkah, killed a man on which the Prophet (peace be on him) warned them, and said, "O the group of Khuzā'ah! Stop the killing; you have killed a person and I will soon pay his blood money"¹³³ He is reported to have condemned in the strongest Arabic words the killing of women and servants when he came to know about a woman slain in the battle field.¹³⁴ It is reported that after the conquest of Makkah, the Prophet (peace be on him) dispatched Khālid b. al-Walid to Banū Jadhīmah in the south of Makkah to invite them to Islam. They told Khālid that they were Muslims. He asked them to hand over their weaponry but they refused. He overpowered them and collected the weapons from them. Since it was very cold, he announced in the morning to his soldiers (consisting of Muhājirūn, Anṣār, Banū Salīm and other tribes) to keep their captives 'warm' [*idfa'ū ṣāhibakum*]. The word mean 'keep your captive warm' in the dialect of Quryash but it meant to kill in the dialect of Banū Salīm. The Banū Salīm started killing their captives. On hearing the incident of Banū Jadhīmah, the Prophet (peace be on him) raised his hands in supplication, saying: "O Allah, I register to you my displeasure at what Khālid has done."¹³⁵ The Prophet (peace be on him) sent 'Alī b. Abī Ṭālib to go

133. See, Muṣṭafā al-Sibā'ī, *Min Rawā'i' Ḥaḍāratinā* (Beirut: al-Maktab al-Islamī, 1985), p. 96.

134. See, note, 97 above.

135. See, Muḥammad b. Ismā'il al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-Maghāzī, Bāb Ba'th al-Nabiyy Ṣallā Allāh 'alayh wa Sallam Khālid b. al-Walid ilā Banī Jadhīmah; Aḥmad b. Shu'ayb al-Nasā'ī, *Sunan al-Nasā'ī al-Kubrā*, Kitāb Ādāb al-Quḍāh, Bāb al-Radd 'alā 'l-Ḥākim idhā Qaḍā bi Ghayr al-Ḥaqq; Aḥmad

there and pay the blood money of all the victims.¹³⁶ The paying of the blood money means that the Prophet (peace be on him) did not condone such killings, however, he regarded them as killings by mistake. It is also reported that in one of the campaigns before the fall of Makkah, Usāmah b. Zayd (d. 54/673) killed a person who proclaimed, there is no deity but Allah. The Prophet (peace be on him) strongly disapproved of this act, on which Usāmah said, “He proclaimed it fearing the arms and killing.” The Prophet (peace be on him) admonished him by repeating, “had you opened his heart to know whether he was proclaiming it truly or not?”¹³⁷

To sum up, war crimes are unknown in the early Islamic military history. There have been very few incidents which we have mentioned above as a result of misunderstanding, miscommunication or wrong interpretation, however, none of these was condoned rather each one was abhorred and condemned by the Prophet (peace be on him).

Conclusion

This paper is a humble study and exploration of the authentic sources like the Qur’ān, the collections of the *Ḥadīth*, the *Sīrah* and *Siyar* works and the History, on the issues framed and treated above, regarding the reforms introduced by the the Prophet Muḥammad (peace be on him) in the conduct of warfare. It concludes that the Prophet (peace be on him) introduced far reaching humane, compassionate and Merciful reforms to the barbaric and inhuman practices that existed in Arabian warfare as well as in the warfare in general for that matter, for centuries.

b. Ḥanbal al-Shaybānī, *al-Musnad*, Kitāb Musnad al-Mukthirīn min al-Ṣaḥābah, Bāb Musnad ‘Abd Allāh b. ‘Umar.

136. In another version of the same episode it is said that when Khālid asked them about their faith, they replied, “We have converted to a new faith [*ṣabānā*].” Khālid ordered his men to kill them but when it was reported to the Prophet (peace be on him), he strongly condemned it. For details see, *ibid*; Muḥammad Munīr, *Aḥkām al-Madaniyyīn fī al-Ḥarb*, p. 123.

137. See, Aḥmad b. Ḥanbal al-Shaybānī, *al-Musnad*, Kitāb Tatimmah Musnad al-Anṣār, Bāb Musnad Usāmah b. Zayd.

The Prophet (peace be on him) specifically prohibited attacks without warning to the enemy. Burning and drowning the enemy to death was prohibited. Destroying buildings, cutting down trees, committing perfidy, breaching the trust of the enemy, the killing of women, children, servants, old, infirm, sick, wounded, priests, peasants, POWs and envoys was strictly forbidden. Execution of hand-tied persons was banned. The Prophet (peace be on him) also outlawed the destruction of harvest, livestock and forests. Looting, plundering and corruption from the war booty are strictly proscribed. Prohibited activities also include indiscipline, making loud noises, and occupying the whole passage while passing through and thereby excluding other people.

Mutilation of dead or alive humans and even the animals was also strictly forbidden by the Prophet (peace be on him). It implies that suicide attacks and using weopans of mass destruction also fall in the forbidden catagory. Genocide and war crimes are unlawful practices that never happened in early Islamic military history. Moreover, both are strictly prohibited in Islamic law. Finally, The Prophet (peace be on him) and Islam cannot be blamed for the misdeeds of some Muslims even if carried out in the name of Islam as long as those happen to contradict with the teachings of the Qur'ān and the noble *Sīrah* of the Prophet (peace be on him), who was sent as the Mercy for all humanity rather all the Worlds, and to set the highest moral standered for the entire humanity in all individual and collective affairs of life, including the conduct of war.

× × ×