



The Reflection of Peace Principles In Muhammad Shaybani's Works

Shukrullo Juraev

Imam Maturidi International Scientific Research Center, International Islamic Academy Of Uzbekistan

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*Correspondence: Shukrullo Juraev

Email: jurayev1982@mail.ru

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Abstract: This article discusses the principles aimed at preserving peace in the works of Muhammad Shaybani, a prominent figure in the Hanafi school of thought. The works of Muhammad Shaybani are recognized as authoritative sources of the Hanafi school by its scholars. Notably, the scholar's work "As-Siyar Al-Kabir" stands out as it is directed towards regulating international relations arising between representatives of different religions in times of war and peace. It is known that Islam, by its very nature, is a religion of peace. It urges people to strive for peace and stability, to eliminate various discord and animosity. Indeed, peace constitutes the foundation of the Islamic religion. However, today, representatives of extremist sects misinterpret the principles of war and peace mentioned in the Qur'an and Hadiths, attempting to portray Islam as a religion of war. The article presents the views of prominent scholars of the Hanafi school on the preservation of peace in Islam. Additionally, it elucidates the essence of the rules concerning war and peace presented in the Qur'an and Hadiths. Especially, the views of Islamic scholars on the concept of "jihad," which is currently being distorted and misinterpreted by radical individuals, are included.

Keywords: Islamic International Law, Sunnah, Hanafi Jurisprudence, International Relations, International Treaties, Jihad, "As-Siyar Al-Kabir," Territories, "Dar Al-Islam," "Dar Al-Harb," "Dar Al-Ahd," Inviolability Of Ambassadors

Introduction

During times of war, international relations, naturally, are affected by the interactions between opposing sides. Each side or group perceives the other as an enemy and strives to achieve victory and superiority by defeating them. Considering that the desire to defeat the enemy can lead to the commission of severe crimes, it is necessary to regulate the means and methods of armed struggle, as well as the initiation and conduct of military actions according to legal procedures. For this reason, in many legal systems, matters of war and peace are regulated based on specific rules.

In Islamic law, special attention has been paid to matters of war and peace, which are the objects of international relations. Specifically, several verses in the Qur'an and a number of hadiths narrated from Muhammad (peace be upon him) regulate relations related to war.

Alongside this, jurists who have worked in the field of the science of siyar (international relations) have not bypassed issues of jurisprudence related to war.

Several objective and subjective reasons exist for this. In particular:

- It is related to the fact that Islam, as a religion, was not easily accepted by other religions and ideologies. This is because Islam encountered sharp opposition even during its formative period.
- In the Arabian Peninsula, various tribes, clans, nations, and peoples living in its eastern and western regions had their own religious and ideological beliefs. During the tribal and clan era, people's belief in their ideological views was strong, and they could not conceive of life without religious beliefs. For this reason, the acceptance of a new religion sometimes did not occur without wars.
- There were uprisings and conflicts in regions that were subjugated to Arab rule against the caliphate by certain segments of the population.
- Conflicts between the ruling Arab circles and representatives of local dynasties, as well as national liberation movements aimed at restoring the independence of local peoples, resulted in the emergence of some independent states detached from the caliphate.
- There were also conflicts and wars between Muslims and followers of other religions, as well as those who did not adhere to any religion, among the tribes and clans within the structure of the Arab caliphate (Tashkulov, 2021). This put the jurists in the position of bearing the responsibility for regulating international relations related to war from a Sharia perspective.

Methodology

Jurists have classified rules of universal significance aimed at preventing wars and minimizing human losses as much as possible. It is known that there are views in Islamic law regarding the division of the world into "Dar al-Islam," "Dar al-Harb," and "Dar al-Sulh." The emergence of these concepts is directly related to the prevention of wars and the organization of relations with the enemy, whether in a state of peace or war.

As discussed in the previous chapter, the division of the world in this manner in Islamic law has not been made based on Qur'anic verses or hadiths. Instead, it has been classified by jurists later on to ensure security in cases where wars occur. The rules developed and refined by jurists in their time are still closely related to the classification of states in situations of war and conflict by today's international law specialists. Accordingly: The first group includes the warring parties, specifically the states involved in the war;

- The second group consists of the neutral parties and members of the international community (Saidov, 2021).
- Muhammad bin Hasan, regarded as one of the guiding figures of the Hanafi school, in his works classifies the principles he established thirteen centuries ago concerning Muslims' relationships with representatives of other religions and their coexistence during times of war and peace. In particular, he emphasizes that in cases of conflict and dispute arising between religions and nations, it is imperative to prevent wars,

and if wars are to occur, to regulate them and to avoid various brutalities (Sarakhshi, 1997).

In fact, no religion supports war; rather, all religions advocate for peace. In this regard, Islam is undoubtedly at the forefront. Specifically, the Qur'an, the primary source of Islam, invites Muslims to prevent war and accept peace in verse 61 of Surah Al-Anfal. Furthermore, it condemns activities aimed at inciting discord and conflict between religious communities and peoples, as well as the establishment of dominance over others and the oppression of one another, all of which violate the agreements aimed at maintaining peace (The Holy Quran, 2016). Such actions are regarded as serious crimes, and those who commit them are subject to accountability in this world and the hereafter.

Results

Imam Muhammad bases his thoughts on the hadiths of the Prophet (peace be upon him) as well as the advice given by Caliph Abu Bakr Siddiq (may Allah be pleased with him) before sending Yazid ibn Abu Sufyan to observe the war, instructing not to kill the clergy. Nonetheless, most jurists did not doubt that if a clergy member left the place of worship to participate in battle, their right to inviolability would be terminated (al-Nawawī, Al-Majmū).

Jurists have also expressed thoughts about not threatening craftsmen, merchants, farmers, and herders with weapons and ensuring their safety during wartime. In this regard, jurists have relied on the hadiths of Muhammad (peace be upon him) and the approaches of later caliphs on this matter (Khadduri). For example, Caliph Umar ibn al-Khattab (may Allah be pleased with him) gave instructions to military leaders prohibiting them from targeting farmers before sending troops to battle, as narrated in Ibn Rushd's "Bidayat al-Mujtahid."

It is reported that Umar ibn al-Khattab (may Allah be pleased with him) instructed the soldiers, "Do not take spoils! Do not betray, do not kill children, and fear Allah regarding farmers; do not kill them until they fight against you," emphasizing that targeting farmers is oppression (Rushd et al.).

Jurists also addressed another humanitarian issue regarding war. It is known that recently, some extremist and terrorist groups operating in Central Asia have been observed calling their relatives, brothers, and siblings to declare jihad. In Islamic law, if close relatives are on the opposing side in a war, it is considered appropriate for a Muslim not to fight against their relatives. In general, jurists have disapproved of Muslims targeting their relatives fighting on the enemy side, as Muhammad (peace be upon him) prevented Abu Bakr (may Allah be pleased with him) from targeting his son who was fighting on the opposing side (Mahmassani).

In Islamic law, it is prohibited to mutilate the body of an enemy killed in battle or to commit any acts of humiliation regarding the body. It is known that during the Battle of Uhud (3/625), many Muslim bodies, including that of the Prophet's uncle Hamza ibn Abdul-Muttalib (568-625), were gruesomely mutilated. Thus, Muslims have also vowed that if given the opportunity, they would retaliate by mutilating the bodies of the enemies in

response to such actions. However, the Quranic verse from Surah An-Nahl states, "If you seek retribution, then let it be in proportion to the injury inflicted upon you. But if you are patient, it is better for those who are patient" (Surah An-Nahl, 126) was revealed, and Muhammad (peace be upon him) instructed Muslims not to inflict harm on enemy bodies.

Specifically, the Prophet (peace be upon him) advised regarding warfare: "Do not betray and do not mutilate the killed body". Abu Bakr and Umar ibn al-Khattab also gave similar instructions to their troops. For instance, Abu Bakr wrote to one of his governors in Hadramaut, "Be cautious about mutilating bodies, as it is a sin and a despicable act" (al-Shaybānī, *Al-Siyar al-Kabīr*).

In particular, jurists have stated that while it is permissible to cut the bodies of enemies killed in battle, this act is only allowed if it leads to victory in the war or concludes the conflict[23]. However, they have prohibited taking the dismembered body as a trophy to another territory. Specifically, it is narrated that Muhammad Shaybani cited the incident during the time of Caliph Abu Bakr when the head of the Roman commander Yannak Bitriq was brought to the caliph by Muslims, which angered him and caused him to retract this action as contrary to the Sunnah. This situation mentioned in "*As-Siyar al-Kabir*" serves as strong evidence that dismembering the body of a person who died in battle is prohibited in Islamic law.

Discussion

The verses revealed regarding warfare with weapons are linked to the Medinan period, and this situation is a necessity of circumstance and the demands of the situation. That is, if Muslims did not take up arms and engage in battle, there was a possibility that an inevitable enemy threat would undermine their peace. Nevertheless, the Quran specifies against whom Muslims may engage in armed conflict. Accordingly, Muslims may fight to repel an attack against themselves. It is prohibited to initiate an unjust attack or engage in aggression. Additionally, armed struggle can be considered lawful for reasons such as protecting weak individuals who are subjected to persecution and preventing potential threats that arise from breaking agreements.

However, today, there are instances of misinterpretation of the rules related to warfare in Islamic jurisprudence or the unjust evaluation of wars that took place during the time of the Prophet Muhammad (peace be upon him). Specifically, there are unfounded claims in Western media aimed at promoting Islamophobia, such as "Islam is spread under the shadow of the sword" or "Islam is a religion of terror." For instance, American writer Robert Spencer (1962) argues that the terrorist groups fighting under the concept of "jihad" do not misrepresent the essence of Islam but rather that the true nature of Islam itself is that way. In his works, Spencer strives to justify the following ideas:

1. Prophet Muhammad did not teach his followers peace and tolerance but commanded the killing of his enemies, asserting that there is nothing more sacred than jihad.
2. The Quran orders Muslims to engage in constant warfare against Jews and Christians.

3. The wars conducted by Muslims during the time of Prophet Muhammad were not defensive but aggressive, leading to the merciless occupation of lands inhabited by non-Muslim peoples, resulting in chaos and disorder (Spencer, 2005).

Moreover, he is considered the author of works like "Muhammad: The Warrior Prophet," "The Quran: The War Book," "Islam: The Religion of War," "Islam: The Religion of Intolerance," and "History of Jihad: From Muhammad to ISIS."

The emergence of such a situation has been influenced by the wars observed in Middle Eastern countries and the criminal activities of terrorist groups perpetrated in the name of Islam. Along with this, the unjust evaluation by certain extremists of the wars during the time of Muhammad (peace be upon him) and the one-sided interpretation of the verses related to warfare in the Quran have contributed to the spread of misinformation claiming that "jihad is the sixth pillar of Islam" and the intent to utilize it in practice. To put a stop to such situations, it is imperative to refer to the original sources in jurisprudence, to study Islamic sciences impartially, and to properly shape people's views in the religious and educational spheres.

It is noteworthy that today, Western specialists are objectively researching the principles of Islamic law related to international relations and are examining religious rules interpreted by Islamic jurisprudence and extremist groups separately. For instance, following the terrorist acts that occurred on September 11, 2001, American professor John Esposito, a specialist in Middle Eastern studies and religious studies, published a work titled "Unholy War: Terror in the Name of Islam." In it, he emphasizes that the formation of the rules related to warfare in Islamic law occurred in clear historical and political contexts, which is distinctly different from the jihad movements interpreted by terrorist groups.

According to Professor Esposito, ignoring the formation and essence of the standards related to warfare in Islamic history, as well as failing to connect wars to specific historical periods and the international relations paradigm that arose, could lead to the misunderstanding that Islam legitimizes war (Esposito, 2014). Particularly, some Western specialists evaluate the ruling applied to the Banu Qurayza tribe as injustice and even genocide for violating agreements with Muslims. However, before evaluating the severe ruling against the Banu Qurayza tribe, it is necessary to conduct an objective study of the situation (The Genocide of the Bani Qurayza).

It is known from Islamic history that Prophet Muhammad (peace be upon him) besieged the Banu Qurayza tribe for more than two weeks in April 627 due to their treachery and support for enemies during the Battle of the Trench. Eventually, the tribe was forced to surrender and seek peace. To this end, representatives of the Banu Qurayza requested that Sa'd ibn Mu'adh, one of the leaders of the Aws tribe who had previously made a pact with the Qurayzah, arbitrate (Movardi, 1994). Sa'd ibn Mu'adh ordered the execution of all the male members of the Banu Qurayza who were capable of fighting.

In particular, as stated in "As-Siyar al-Kabir," warfare is conducted only against combatants, and women, children, monks, villages, the mentally disabled, farmers, slaves, the blind, and others who are not military personnel are not to be killed in warfare.

According to the views of Muhammad Shaybani, a woman may only be harmed if she attacks with a weapon; otherwise, Muslims may not harm her in self-defense if it is possible to disarm her (Al-Shaybānī, Al-Siyar al-Kabīr).

In addition, Muhammad Shaybani concluded that women are usually not sent to war as soldiers and are not killed as enemies. He supports his opinion with the verse from Surah Al-Baqarah in the Qur'an: "Fight in the way of Allah those who fight you" (Qur'an 2:190) (Al-Shaybānī, Al-Siyar al-Kabīr).

The opinions of the jurists on this matter vary. In particular, Ahmad al-Qarafi (d. 684/1285), a jurist from the Maliki school, stated that if a Muslim woman is struck by stones and killed by enemies, then it is permissible to kill women as well (Al-Qarofi, Ahmad ibn Idrīs. al-Zahira). Other jurists have also expressed their views on the legal status of women in relation to wars. Specifically, Ibn Qudamah explained that "they do not fight" (meaning they do not belong to the category of combatants), and for this reason, they are not to be killed (Qudāmah). Imam Ghazali stated that women are not warriors and do not engage in combat (Al-Ghazālī et al.).

However, according to the opinions supported by Imam Shafi'i (d. 204/820) and Ibn Hazm (d. 456/1064), women participating in the fight as enemies can also be killed if they refuse to pay the jizyah (protection tax). Nevertheless, Shafi'i added that it is not permissible to target those who engage in worship and do not participate in combat actions. Ibn Hazm emphasized that women and children are exempt from combat during wars, and he did not accept the authenticity of any hadith that contradicts the right to immunity for other categories.

The jurists who discussed the participation of children in wars have specifically focused on the age issue. According to them, the legal age of immunity for children is considered to be 15 years. They cite the example of a 14-year-old child who participated in the Battle of Badr as evidence for this stance (Al-Shaybānī). Notably, the opinion of jurists regarding the age of immunity aligns with the age limit established in modern international law. The humanitarian rules related to war were reflected in the Additional Protocol I to the Geneva Conventions, which was adopted on June 8, 1977, stating that the minimum age for protecting children is set at 15 years (Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)).

Regarding the immunity of women and children, some jurists stated that if a woman participates in combat, it is permissible to use weapons against her. As evidence, they refer to the Battle of Hunayn (8/630), where a Muslim soldier was questioned by Muhammad (pbuh) for killing a woman who attempted to attack him with a sword. Despite this, according to Muhammad Shaybani's opinion in "al-Siyar al-Kabir," if there is a possibility to incapacitate a woman, she should not be killed (Al-Shaybānī).

Furthermore, there are also various opinions among jurists regarding the elderly, who are considered immune in war. Firstly, there is a disagreement among jurists regarding the age range that defines an elderly person. Although Muhammad Shaybani did not specify a precise age, some jurists have defined a specific age for someone to be considered elderly.

For example, Imam San'ani (1099/1688 - 1182/1768) from the Shafi'i school suggested that a person must be at least 50 years old to be considered elderly. However, generally, for a person to be classified as immune in war, they must be of such an advanced age that they cannot carry arms and must not participate in military actions (Al-Ṣanaʿānī, Subul al-Salām).

Conclusion

According to Islamic law, after military actions cease, if the bodies of enemy combatants are required, they should be either returned to the enemy or buried by Muslims. According to several narrations, the Messenger of Allah (peace be upon him) always ensured the burial of the dead, regardless of whether the bodies belonged to Muslims or enemies.

Moreover, nothing should be demanded in exchange for handing over the bodies of the enemies. During the Battle of the Trench, when Muslims offered money in exchange for the body of Nawfal ibn Abdullah, who died while trying to cross the trench, the Prophet (peace be upon him) refused any payment for it. Jurists have deemed it necessary to adhere to such practices during warfare. This position of jurists corresponds with Article 17 of the first Geneva Convention (1949) (Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)).

Muhammad ibn Hasan Shaybani also emphasized humanitarian aspects in warfare and conflict situations in his "As-Siyar al-Kabir." He particularly highlighted the inviolability of civilians who do not participate in the war, especially women, children, the elderly, and clergy. This indicates that Muhammad Shaybani was ahead of his time with his views. These principles are among the important issues of modern international humanitarian law, which only came under legal protection in the 20th century.

The information presented above illustrates that Islamic law, particularly in the Hanafi school, has meticulously investigated matters related to war and conflict situations and demonstrates the primacy of humanitarian principles.

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