



War, Islam, and the Sanctity of Life: Non-Aggression in the Islamic Code of Combat

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Introduction

The protection of life, as we know, is a fundamental value and objective in Islam. Peace should be the normal state of affairs between people, regardless of differences in religion, philosophy, or anything else. Peace, however, is won at the cost of repelling unjust aggression against innocent people. To this end, Islam and its scholarly tradition have laid down rules regarding warfare, both what justifies a declaration of war (*jus ad bellum*) and how a just war should be conducted after its declaration (*jus in bello*). The Islamic just war tradition, in fact, precedes and foreshadows a number of agreed-upon principles in modern just war theory.

This article focuses on the second part of Islam’s just war theory: the specific rulings that prohibit the excessive use of force. These rules safeguard the lives and properties of civilians and the environment, mandate that prisoners of war be treated humanely, and forbid any military tactics involving the use of torture or terrorism.

The Principle of Non-Aggression

A central principle that runs all throughout Islamic teachings on warfare is that of *non-aggression*: one must never initiate aggression and should only respond to it proportionately. The basis of this principle is the saying of the Prophet ﷺ, “Do not cause harm nor return harm.”¹ This statement became one of the essential “five maxims” that govern all actions in Islamic law.² Every action that causes harm to another person or animal is forbidden by default, unless it is taken to secure a greater benefit or repel a greater harm according to the subsidiary principle, “Greater harm is removed by lesser harm.”³ It is forbidden in Islam to remove a lesser harm with a greater harm.

¹ Ibn Mājah. *Sunan Ibn Mājah*. (Bayrūt: Dār Ihyā’ al-Turāth al-’Arabī, 1975) 2:784 #2340.

² Suyūṭī, Jalāl al-Dīn. *Al-Ashbah Wal-Naza’ir Fi Qawa’id Wa Furu’ Fiqh Al-Shafi’iyah*. (Bayrūt: Dar al-Kutub al-’Ilmiyah, 1990) 1:7-8.

³ Ḥaydar, ’Alī. *Durar Al-Ḥukkām Sharḥ Majallat Al-Aḥkām*. (Bayrūt: Dār al-Jīl, 1991) 1:40.

War is one of the greatest of human activities that cause harm to people, animals, and the environment. Hence, it should not be undertaken except to repel an even greater harm as God said, “Persecution is worse than killing.”⁴ The persecution condemned by this verse refers to the Quraish who violently suppressed the practice of Islam, preventing people from performing pilgrimage at the Sacred Mosque in Mecca and driving Muslims out of their homes for no reason other than their beliefs. War, which involves killing, is certainly an evil, but the evil of this religious persecution was greater. Persecution at that time involved the violent curtailment of freedom to practice faith and systematic violent oppression of the poor and weak. Islamic just war was instituted to ensure Muslims would not have to endure the same suffering as that of their predecessors.

Sometimes the historical prescriptions of Muslim scholars are interpreted in ways that appear to violate the principle of non-aggression. For example, some jurists developed a concept of “offensive jihad” (*jihad al-talab*) which involves attacking the enemy in their own lands. It is analogous to the Western concept of preemptive war, taking initiative against a credible threat. In the pre-modern world of expanding dynastic empires, such “offensive” activities were deemed necessary for purposes of self-defense. As the Arabs would say, “When the Romans are not campaigned against, they campaign (against you).”⁵ It is only in this sense that the verse, “Fight in God’s cause against those who fight you,”⁶ was claimed by some jurists to be “abrogated” by the “verse of the sword.” As explained by the exegete Al-Badawi, the latter verses authorized war against “those who fight you *or from whom that is expected*.”⁷ The principle of non-aggression itself was not abrogated or canceled, but rather Muslims were commanded to take the initiative against actual threats to their safety, namely the Roman and Persian empires, instead of waiting to be attacked in their own lands.

⁴ Surat al-Baqarah 2:217; Abdel Haleem, M. A. *The Qur’an : English Translation with Parallel Arabic Text*. (Oxford: Oxford University Press, 2010) 35.

⁵ Al-Dhahabī. *Siyar A’lām Al-Nubalā’*. (al-Qāhirah: Dār al-Ḥadīth, 2006) 14:85.

⁶ Surat al-Baqarah 2:190; Abdel Haleem, *The Qur’an*, 30.

⁷ Al-Bayḍāwī. *Anwār Al-Tanzīl Wa Asrār Al-Ta’wīl*. (Bayrūt: Dār Ihyā’ al-Turāth al-’Arabī, 1998) 1:270.

For this reason, jurists like Ibn Taymiyyah asserted that the Quran and the majority of scholars only authorize warfare against others on the condition that they wage or threaten war first.⁸ He exempted all categories of people from aggression except for the “people of combat and obstruction,” that is, those who attack Muslims or who violently prevent them from practicing their religion. Non-combatants such as women, children, monks, elders, the blind, and others may not be attacked unless they join the war effort.⁹

The Prophet ﷺ’s principle of non-aggression not only prevents unjust wars from starting, it also prevents injustice from occurring once war has already been declared. We now turn our attention to how Islam established rules, based upon non-aggression, to minimize the harms of warfare as much as possible.

Justice in War (*Jus in Bello*)

Just as “persecution is worse than killing” is the key verse describing what authorizes a just war (*jus ad bellum*), the following verse highlights the Islamic criteria for justice in war, or how war is properly fought within its rules of engagement:

*Fight in God's cause against those who fight you, but do not overstep the limits: God does not love those who overstep the limits.*¹⁰

This was the first verse in the Quran commanding Muslims to fight. Prior to this verse and others giving Muslims permission to fight, the Quran “advised Muslims to be patient against pains inflicted on them by disbelievers, even to ignore and forgive when they can.”¹¹ However, when it became necessary for Muslims to fight back against aggression, lest they be killed, this verse was revealed commanding

⁸ Ibn Taymiyyah. *Kitāb Al-Nubūwāt*. (al-Riyād: Aḍwā’ al-Salaf, 2000) 1:570.

⁹ Ibn Taymiyyah. *Majmū’ Al-Fatāwā*. (al-Madīnah al-Munawwarah: Majma’ al-Malik Fahd li-Ṭibā’at al-Muṣḥaf al-Sharīf, 1995) 28:354.

¹⁰ Surat al-Baqarah 2:190; Abdel Haleem, *The Qur’an*, 30.

¹¹ Muḥammad, Shafī’ and Muḥammad T. ‘Uṣmānī. *Ma’ariful-Quran*. (Karachi: Maktaba-e-Darul-Uloom, 1996) 1:482.

the Muslims to go to war. From this verse, many critical Islamic rules of engagement are derived.

The first and most important principle is this: *Fighting is limited to those individuals who fight you, to combatants alone.*

The verse says explicitly “Fight against those who fight you,” and therefore civilians may not be targeted. As Michael Walzer, a preeminent scholar of modern just war theory, argues, the killing of combatants can only occur when a war has been legally declared.¹² Islam complements this argument. Muslim jurists have derived from the above verse that it is impermissible to kill those not engaged in the actual fighting, especially women, children, the elderly, priests, monks, the handicapped, and even laborers or farmers who work for the enemy but are not directly involved in the fighting.¹³

This is highlighted by the statement of Abu Bakr, Prophet Muhammad ﷺ’s closest companion, and second-in-command, when he instructed his army as recorded in the earliest manual of Islamic law:

You will find a people who claim to have totally given themselves to God. Leave them to what they claim to have given themselves... Do not kill women or children or an aged, infirm person. Do not cut down fruit-bearing trees. Do not destroy an inhabited place. Do not slaughter sheep or camels except for food. Do not burn bees and do not scatter them. Do not steal from the spoils, and do not be cowardly.

¹⁴

The Prophet ﷺ himself set this precedent in a number of his actions and directives. On one occasion, after a woman was found to have been killed in the

¹² Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. (New York: BasicBooks, 2006) 38.

¹³ Shafī’ and ‘Uṣmānī, *Ma‘ariful-Quran*, 1:483.

¹⁴ Mālik ibn Anas, and Abū Muṣ‘ab Al-Zuhri. *Muwatta‘a’ Al-Imām Mālik*. (Bayrūt: Mu’assasat al-Risālah, 1993) 1:357 #918.

battle, the Prophet ﷺ “condemned” the killing of women and children.¹⁵ In another narration, the Prophet ﷺ explained his condemnation by saying, “She was not fighting,” demonstrating non-combatant immunity, and he further commanded his companions not to kill workers.¹⁶ The message of non-aggression was even written on the Prophet ﷺ’s sword as a reminder to all, “Verily, the worst of people in insolence are those who strike at whoever did not strike them, a man who kills those who did not fight him.”¹⁷ There are many narrations and traditions like these that emphasize protecting the lives of civilians and noncombatants.

In light of this principle, an additional rule of engagement must be emphasized: *Transgressing the limits is prohibited.*

On the battlefield, the old, the weak, women, children, monks, laborers, and other civilians cannot be targeted unless they forfeit that immunity by fighting themselves. Even then, force is authorized only in proportion to the threat, so killing them should be avoided if at all possible.

Two more rules outlaw cruelty against combatants and destruction of property: 1) *Mutilation and torture are prohibited*; and 2) *Destruction of crops, trees, livestock or civilian infrastructure is not permissible except in certain limited circumstances* (explored later on).

These very principles were affirmed by Article 3 of the Cairo Declaration of Human Rights, issued and adopted at the Nineteenth Islamic Conference of Foreign Ministers in Cairo in 1990, which was based on traditional *Sharia* (or principles of Islamic Law):

a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and

¹⁵ Al-Bukhārī. *Ṣaḥīḥ Al-Bukhārī*. (Bayrūt: Dār Ṭawq al-Najjāh, 2002) 4:61 #3014.

¹⁶ Abū Dāwūd. *Sunan Abī Dāwūd*. (Ṣaydā, Lubnān: al-Maktabah al-Aṣrīyah, 1980) 3:53 #2669.

¹⁷ Al-Bayhaqī. *Al-Sunan Al-Kubrā*. (Bayrūt: Dār al-Kutub al-‘Ilmīyah, 2003) 8:49 #15896.

children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered, and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war and to arrange visits or reunions of the families separated by the circumstances of war.

b) It is prohibited to fell trees, to damage crops or livestock, and to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.¹⁸

Thus, the Quran and Sunnah clearly provide stringent protections for noncombatants during warfare. Civilians may in no way be intentionally targeted. The Quran emphasizes this rule by saying, “Do not transgress, for God does not love transgressors.” In other words, fighting is limited to combatants—those who are engaged in fighting—and killing anyone besides them is a prohibited transgression hated by God according to Islamic Law. Unsurprisingly, these rules are consistent with Walzer’s modern theory.

The Quran is very clear about the gravity of taking innocent life:

On account of [his deed], We decreed to the Children of Israel that if anyone kills a person—unless in retribution for murder or spreading corruption in the land—it is as if he kills all mankind, while if any saves a life it is as if he saves the lives of all mankind.¹⁹

Here, the Quran makes a prohibition and an order simultaneously. It declares that taking an innocent human life is tantamount to mass murder, for approving one murder is to morally approve of every murder. At the same time, the verse makes it permissible for the state to use the death penalty under the strictest of conditions (discussion of which is beyond the scope of this article). Nonetheless, the enormity

¹⁸ “Cairo Declaration on Human Rights in Islam,” University of Minnesota Human Rights Library; hrlibrary.umn.edu/instreet/cairodeclaration.html

¹⁹ Surat al-Ma’idah 5:32; Abdel Haleem, *The Qur’an*, 114.

of killing a single person should give every believer pause if its legality is disputable, as the Prophet ﷺ said, “The most restrained of the people regarding killing are the people of faith.”²⁰ The Quran is also deliberately worded towards protecting all life, including the lives of non-Muslims. It does not say, “If anyone kills a Muslim, it would be as if he killed all mankind.” Rather, the word used in Arabic is *nafs*, meaning “a soul” or “a life,” regardless of faith or ethnicity or any other identity trait. The murder of any life is tantamount to mass murder and a crime against humanity (in the literal sense); it is absolutely prohibited in the strongest terms.

However, the Quran clearly makes it permissible to kill combatants during warfare. According to just war theory, as outlined by Walzer, enemy combatants may legitimately be killed at any point, even when they are unarmed, as long as they are not wounded or captured.²¹ He makes a detailed case that it is legally and morally justified to kill enemy soldiers at any point during warfare and that even when not actively engaged in fighting at the time, designated soldiers do not regain their right to life.

In the same vein, the Quran too considers the killing of enemy soldiers during a war to be legitimate, which is the context of the verse, “Kill them wherever you encounter them, and drive them out from where they drove you out, for persecution is more serious than killing.”²² This verse was revealed after the signing of the Hudaibiyyah treaty when Muslims were about to embark on a pilgrimage to Mecca. They did not know how to react if they were met with aggression. Were they allowed to fight back against those who attacked them? Were they allowed to take back land and property wrongfully taken from them by force?

This verse answered those questions. Namely, that it is permissible to attack and kill the combatants with whom you are at war and also to reclaim wrongfully taken land and property using proportional force. It would be entirely misleading to cite

²⁰ Ibn Ḥanbal, Aḥmad. *Musnad Al-Imām Aḥmad Ibn Ḥanbal*. (Bayrūt: Mu’assasat al-Risālah, 2001) 6:274 #3728.

²¹ Walzer, *Just and Unjust Wars*, 138, 142.

²² Surat al-Baqarah 2:191; Abdel Haleem, *The Qur’an*, 30.

the clause “Kill them wherever you find them” without reference to the surrounding verses or the historical and legal context. Often some non-Muslims and even Muslims misquote this verse to justify their own agendas as if the Quran was inciting wanton violence. However, this verse is very clear when interpreted within its proper context. It defines important limits in warfare. It does not permit the unrestrained killing of people “wherever you find them.”

The Quran ends this verse by saying “this is what such disbelievers deserve,” referring to the idolaters who attacked the Muslims in Mecca. It should be noted that this clause does not make it permissible to kill non-Muslims simply because of their non-belief in Islam, as the previous verse only permitted attacking those who attacked first. Noncombatant men, women, children, elderly and so on were never targeted by Prophet Muhammad ﷺ’s army. In fact, Mecca was eventually liberated from the oppressive Quraish aristocracy and not a single drop of blood was shed, despite the fact that many of the idolaters who had persecuted Muslims for years were now vulnerable. They were all pardoned except for a few of the worst war criminals.²³

Finally, the relevant passage ends with the following mitigating qualifications:

*But if they stop, then God is most forgiving and merciful. Fight them until there is no more persecution, and worship is devoted to God. If they cease hostilities, there can be no [further] hostility, except towards aggressors. A sacred month for a sacred month: violation of sanctity [calls for] fair retribution. So if anyone commits aggression against you, attack him as he attacked you, but be mindful of God, and know that He is with those who are mindful of Him.*²⁴

A concise picture of just war theory comes into focus. The passage reiterates the reason for fighting: to bring an end to aggression and oppression. That “worship is

²³ Ramadan, Tariq. *In the Footsteps of the Prophet: Lessons from the Life of Muhammad*. (Oxford: Oxford University Press, 2010) 178.

²⁴ Surat al-Baqarah 2:192-194; Abdel Haleem, *The Qur’an*, 30.

devoted to God” means that God’s law of justice is upheld and the natural rights of all are protected. It does not require people to actually embrace Islam individually, but only that they uphold social justice consistent with Islamic and humanitarian values.

Moreover, if enemies desist in their fighting, such as when a soldier surrenders or a state calls for a peace treaty, then their peace offering should be accepted without any retribution (except for individuals guilty of war crimes). As the Quran states elsewhere, “But if they incline towards peace, you [Prophet] must also incline towards it, and put your trust in God.”²⁵ Even individual combatants must be granted asylum if they request it, “If any of the idolaters should seek your protection [Prophet], grant it to him so that he may hear the word of God, then take him to a place safe for him, for they are people with no knowledge [of it].”²⁶

The Quran emphasizes that peace should be made with the enemy, regardless of their faith or race or any other characteristic of their identity. Peace is always preferred as long as the enemy inclines towards it and quits its aggression. At that point, there is no authorization for hostility except against those who continue their aggression or who have committed war crimes. Furthermore, if an enemy combatant seeks refuge, Muslims are ordered to grant him it.

That being said, we can affirm the following rules of engagement:

- *War is allowed only to end aggression or persecution.*
- *Peace offerings should be accepted on their face.*
- *Enemy soldiers who surrender should not be harmed.*

Now that the basic foundation of just war has been established, we will move on to discuss its details.

²⁵ Surat al-Anfal 8:61; Abdel Haleem, *The Qur’an*, 185.

²⁶ Surat al-Tawbah 9:6; Abdel Haleem, *The Qur’an*, 188.

Prisoners of War (POWs)

As proven earlier, enemies who surrender or stop fighting must be given safety. The Quran declares that giving charity to prisoners of war is on par with feeding the poor and needy, saying of the believers, “They give food to the poor, the orphan, and the captive, though they love it themselves.”²⁷ According to the earliest exegete Al-Ṭabarī, the “captive” in this verse is “the combatant from the land of war who has been taken by force in victory... Thus, God praised these righteous people for their feeding of these [prisoners], seeking closeness to God and His pleasure by that, and their mercy for them.”²⁸ In other words, the early believers gave up their own food, which they desired, to the same prisoners who had previously been attacking them.

Islam prescribed an ingenious solution to the dilemma of what to do with prisoners of war. This dilemma has troubled states since the dawn of time and continues to cause moral predicaments in the modern world, as seen in the military prisons of Abu Ghraib and Guantanamo Bay. Walzer addresses this issue, writing:

*A soldier who surrenders enters into an agreement with his captors: he will stop fighting if they will accord him what the legal handbooks call “benevolent quarantine”... Prisoners of war have the right to try to escape—they cannot be punished for the attempt—but if they kill a guard in order to escape, the killing is not an act of war; it is murder. For they committed themselves to stop fighting, gave up their right to kill, when they surrendered.*²⁹

While this sounds ideal, it is vague and rarely put into true practice today. What exactly constitutes “benevolent quarantine”? How long should prisoners be imprisoned? How can they attain their freedom?

²⁷ Surat al-Insan 76:8; Abdel Haleem, *The Qur'an*, 580.

²⁸ Al-Ṭabarī, *Jāmi' Al-Bayān 'an Ta'wīl Al-Qur'ān*. (Bayrūt: Mu'assasat al-Risālah, 2000) 24:97.

²⁹ Walzer, *Just and Unjust Wars*, 46.

Throughout history there have been a few standard options regarding the treatment of prisoners of war:

Execute Them

Plain and simple, and perhaps the quickest and easiest solution for captors. This, of course, is morally reprehensible except as a legal punishment for bona fide war criminals. Execution as a general prescription is against both Islamic and modern just war principles.

Imprison Them

This action is compatible with Islam and just war theory on the condition that prisoners are not mistreated. The disadvantage of this system, even when instituted appropriately, is that it hurts both the captives and captors. For the captives, it forces them to be locked up indefinitely, where they can neither benefit themselves nor society. For their captors, it imposes hardship on their society as they must pay for the prisoner's shelter, food, medical treatment, and guards, among other things. Logistically, without the resources to construct mass systems of incarceration with appropriately staffed and furnished buildings, this would have been impossible to implement in the aftermath of a large battle. In historical practice, it has been rare that prisoners were held in ideal conditions. They were often subject to inhumane treatment with no clear end in sight but escape or execution.

Release Them

This is the most generous solution, but it is entirely impractical and can even be dangerous. If your enemies know that they will merely be released whenever they are captured, they know that they can later regroup and attack you again.

Since none of these solutions are morally or practically viable as a general rule, Islam took an existing practice and humanized, transformed, and reformed it: the system of *ruq*, or bondage, sometimes incorrectly equated with chattel slavery. Each prisoner was assigned to one household of the Muslim community. That household was responsible for providing the bondsman with adequate shelter and the same quality of food and clothing shared by all members of the family. The

bondsman, in turn, would assist the family with routine chores and labor. This relationship would continue until the bondsman was ransomed by his own community, he was freed by his caretaker, or he bought his own freedom. In this way, the prisoner made use of his time and benefited himself and society without being mistreated or being a burden on society. In addition, the requirement for monetary payment to be freed served as a deterrent to enemies.

The Islamic system certainly qualifies as “benevolent quarantine” in modern just war theory. The prisoner is protected from abuse and given the same quality treatment and living standards as the household master he is assigned to live with. The prisoner is also able to pay back this good treatment with his labor, so as not to disadvantage the community.

In order to ensure the objectives of this system, the Prophet ﷺ imposed several rules and restrictions on bondage. The caretaker could not change the name of his bondsman and thereby do violence to his family lineage. The bondsman needed to be given the opportunity to work towards purchasing their own freedom, as the Quran states, “If any of your bondsmen wish to pay for their freedom, make a contract with them accordingly.”³⁰ The bondsman had to be treated as an equal, his natural rights respected, and not be burdened with too much work. One of the companions, Abu Dharr, was seen wearing the same clothing as his bondsman. When he was asked why, he said that the Prophet ﷺ once censured him for abusing his bondsman, saying:

*They are your brothers and sisters. God has placed them in your hands. Whoever has his brother under him should feed him with the same food he eats, clothe him with the same clothes he wears, and not burden him beyond his ability. If you burden him, then help him.*³¹

Freeing bondsmen is also greatly rewarded by God and is even required for the expiation of many sins. The Quran describes the path to salvation as “to free a

³⁰ Surat al-Nur 24:33; Abdel Haleem, *The Qur'an*, 355.

³¹ Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī*, 1:15 #30.

bondsman.”³² The Prophet ﷺ encouraged freeing captives in general, whenever possible, saying, “Feed the hungry, visit the sick, and set the captives free.”³³ He also made it a rule that simply slapping a bondsman or servant in a humiliating way necessitated their freedom, “Whoever strikes his bondsman without limit or slaps him, then the expiation for the sin is to emancipate him.”³⁴

As can be seen from the above restrictions, the system of bondage in Islam was designed to integrate prisoners of war as productive members of society. Sometimes bondsmen would convert to Islam when receiving such graceful treatment. The sign of Islam’s truth is the fact that so many of its former enemies, like Umar ibn Al-Khattab and Abu Sufyan, eventually came to accept it willingly.

The bondage system was so successful in many cases that entire classes of bondsmen or their children achieved high social status and even became rulers in the Muslim world, such as the Mamluks (“those who were owned”) in the Ottoman Empire. This system, unfortunately, has been unfairly characterized as equivalent to how Native Americans and Africans were treated by their European and American slave masters. These slaves were usually given no or little rights, mistreated, ruthlessly beaten, and sometimes killed. But the similarity between “slavery” in Islam and the European/American slavery system is only in the name people have given to it.³⁵ Bondsmen under Islamic law were under control for completely different reasons, as prisoners of war rather than because of their race. Prisoners in Islam were treated far better and given the opportunity for upward social mobility. Furthermore, as mentioned, Islam encouraged and facilitated the freeing of bondsmen.

The Islamic system, in fact, can be a fair and benevolent alternative to the treatment of prisoners in modern times. It could be argued that the Western standard for how prisoners of war are treated—as seen at Guantanamo Bay and

³² Surat al-Balad 90:13; Abdel Haleem, *The Qur’an*, 595.

³³ Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī*, 7:67 5373.

³⁴ Muslim. *Ṣaḥīḥ Muslim*. ([Bayrūt]: Dār Iḥyā’ al-Kutub al-‘Arabīyah, 1955) 3:1278 #1657.

³⁵ See <https://yaqeeninstitute.org/en/jonathan-brown/the-problem-of-slavery/>

other “black sites”—is in reality much less humane than the traditional Islamic system.

Double Effect

In war, sometimes military actions must be taken that will invariably take civilian lives and destroy property. Can such actions be considered just?

The doctrine of “double effect” takes into consideration that any military action might have two elements, a positive effect and a negative effect, with the positive effect being what is intended. A negative effect can be justified as the lesser of two evils. Walzer asserts that this doctrine is the basis for accepting a reasonable degree of collateral damage:

[I]t is permissible to perform an act likely to have evil consequences (like the killing of noncombatants) provided the following four conditions hold: 1) The act is good in itself or at least indifferent, which means, for our purposes that it is a legitimate act of war. 2) The direct effect is morally acceptable—the destruction of military supplies, for example, or the killing of enemy soldiers. 3) The intention of the actor is good, that is, he aims only at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends. 4) The good effect is sufficiently good to compensate for allowing the evil effect; it must be justifiable under Sidgwick’s proportionality rule.³⁶

In other words, Walzer argues that it is just and acceptable to take military actions that may have harmful unintended consequences, like the deaths of civilians, as long as the initial act is legitimate and the positive outcome (repelling a threat) is the primary motive. The evil consequence must not be the purpose and aim of the

³⁶ Walzer, *Just and Unjust Wars*, 153.

action and, importantly, the evil effects must be sufficiently outweighed by the positive outcome(s) of the action.

This understanding is consistent with Islamic law principles that allow a greater harm to be removed by a lesser harm, to attempt to calculate as much as possible the net benefit and harm of an action. As a rule, it was clear that the Prophet ﷺ absolutely forbade the intentional targeting and killing of civilians in all circumstances, particularly women and children. Even so, due to the generally accepted principle of military necessity and choosing the lesser of two evils, as limited by the four conditions of double effect, the Prophet ﷺ conceded to the permissibility of taking military action when it might result in harm to civilians, but only if such actions were necessary and unavoidable.

The condition remained that civilians could not be targeted purposefully, but legitimate military actions realistically expected to result in collateral damage need not be prohibited altogether. Of course, this does not justify direct attacks against civilians or any action that is likely to cause disproportionate harm. This understanding was expressed by Imam Muslim in a chapter of his entitled, “Permissibility of killing women and children in night raids if it is not deliberate.” He cites an incident in which the Prophet ﷺ conducted a night raid against the enemy and some women and children were found later to have been killed accidentally. The Prophet ﷺ was asked about them and he said, “They are from them.”³⁷ It was considered the fault of the enemy for putting their civilians in proximity to a legitimate military target.

This incident established the principle of military necessity in Islam, as limited by the conditions of double effect. Though the killing of noncombatants is terribly reprehensible, it may at times be unavoidable while taking action to push back against the enemy’s aggression. If the prohibition of killing civilians was absolute in each and every circumstance, even when unavoidable and unintended, it would essentially allow the enemy to use human shields to advance their campaign. No reasonable military leader would accept such a disadvantage. To be clear, this

³⁷ Muslim, *Ṣaḥīḥ Muslim*, 3:1364 #1745.

concession may not be stretched to the point of directly targeting civilians or causing disproportionate destruction. Islam and just war theory do not allow the concept of the “greater good” to be manipulated for demonstrably evil results.

Under the same principle of military necessity and double effect, Islam generally prohibits the destruction of enemy fields, farms, and infrastructure, as mentioned by the command of Abu Bakr cited previously. However, this rule too is subject to the principle of double effect. The Quran permitted the burning of enemy trees if necessary, yet at the same time did not obligate or recommend such tactics, “Whatever you may have done to [their] palm trees—cutting them down or leaving them standing on their roots—was done by God's leave, so that He might disgrace those who defied Him.”³⁸

This verse revealed regarding a specific Jewish tribe in Medina, Banu Nadir, who had betrayed the Muslims in violation of the Medina Charter by aiding the Quraysh’s war efforts. It was not an attack on them simply because they were Jewish. During the attack, it was suggested that their palm trees, which offered Banu Nadir protection and resources to continue fighting, should be burnt down. The Muslims disagreed over whether this action should be taken, but the verse validated an attack on their palm trees. It was an action that was normally prohibited, but which became lawful due to necessity.

As a result of this verse, the Muslim scholar Shaykh Ibn Humam rules that attacking enemy plant life and infrastructure is legitimate during war “only if the enemy cannot be vanquished or overpowered without resorting to the above measures.”³⁹ Once again, a normally prohibited action is only allowed as a concession to military necessity. The concession is not something good in itself, rather it is only made permissible when the only alternative is worse.

³⁸ Surat al-Hashr 59:5; Abdel Haleem, *The Qur'an*, 547.

³⁹ Shafi’ and ‘Uṣmānī, *Ma‘ariful-Quran*, 8:339.

The unlawful expansion of such concessions, to the point of intentionally causing wanton death and destruction, is the essence of terrorism to which we now turn our attention.

Terrorism

Terrorism has been defined as the “the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims.”⁴⁰ Any form of terrorism, or violation of non-aggression principles, is an entirely illegitimate war crime in both Islamic law and modern just war theory, for all of the reasons we have outlined up to this point.

Sometimes, regrettably, the Quran is translated in a manner that seems to encourage terror, such as the verse: “Prepare whatever forces you [believers] can muster, including warhorses, to frighten off God's enemies and yours, and warn others unknown to you but known to God.”⁴¹ The context is evident that the purpose is not to frighten whole societies or intimidate people towards some self-serving political goal, but instead to deter potential threats. The “fear” or “terror” is not generated from an actual attack, especially not an attack on civilians or their property. The purpose is *deterrence, not terror*. Moreover, immediately following this verse is the command to accept peace, as previously cited, which lets us know that such deterrence only applies to enemy aggressors.

Deterrence is another legitimate action in just war theory. According to political scientists Frank Zagare and D. Marc Kilgour, successful deterrence to avoid war requires not only capability but also credibility within “the norm of reciprocity.”⁴² When a state has both the capability and credibility to carry out a threat or respond to an attack, war is less likely to break out. A state that attacks another state should expect a counter-attack. During the Cold War, it was the doctrine of mutually-assured destruction or “the balance of power,” rooted in reciprocal

⁴⁰ Oxford English Dictionary online; en.oxforddictionaries.com/definition/terrorism.

⁴¹ Surat al-Anfal 8:60; Abdel Haleem, *The Qur'an*, 185.

⁴² Zagare, Frank C., and D. M. Kilgour. *Perfect Deterrence*. (Cambridge, UK: Cambridge University Press, 2000) 296.

deterrence, that prevented the Soviet Union and the United States from unleashing a global nuclear holocaust. In order to preserve the peace, the Quran advocates for building up military preparation as a deterrent against possible threats. This is the context in which “terror” is used in the Quran, even though the term used could be translated differently to avoid this undue connotation. The Quran in no way justifies the intentional killing of innocent civilians, or “terrorism” as understood today. Even Bernard Lewis, a scholar known to be highly critical of Muslims, admits as much, “At no point do the basic texts of Islam enjoin terrorism and murder.”⁴³

As the serious academic study of terrorism has shown, the alleged relationship between Islam and terrorism is spurious at best and dangerous at worst. Political scientist Robert Pape studied suicide terrorist attacks committed by Muslim extremists (or deviants, a more accurate description) and found that Islam itself was not the motivation:

*The data show that there is little connection between suicide terrorism and Islamic fundamentalism, or any one of the world’s religions... Rather, what nearly all suicide terrorist attacks have in common is a specific secular and strategic goal: to compel modern democracies to withdraw military forces from territory that terrorists consider to be their homeland. Religion is rarely the root cause, although it is often used as a tool by terrorist organizations in recruiting and in other efforts in service of the broader strategic objective.*⁴⁴

Pape also warns about the dangers of policies that assume Islam to be the root cause of terrorism, “...the presumed connection between suicide terrorism and Islamic fundamentalism is misleading and may be encouraging domestic and foreign policies likely to worsen America’s situation and to harm many Muslims

⁴³ Lewis, Bernard. *The Crisis of Islam: Holy War and Unholy Terror*. (New York: Modern Library, 2003) 39.

⁴⁴ Pape, Robert. *Dying to Win: The Strategic Logic of Suicide Terrorism*. (New York: Random House Trade Paperbacks, 2006) 4.

needlessly.”⁴⁵ Muslims and non-Muslims are both being hurt by an erroneous political discourse that blames Islam, and nothing else, for terrorism.

Joseph Schwartz, another political scientist, writes that even the horrendous attacks of 9/11 had little to do with the Islamic faith and everything to do with resistance to American foreign policy in the Middle East (expressed using illegitimate means):

*But such movements are not simply the creation of warped, irrational minds. Terrorist rage, no matter how ineffective, often arises from totally comprehensible political grievances. To treat Al-Qaeda as an irrationalist cult of slaughter is to ignore the potential rational logic behind its attack on the World Trade Center, a logic that the United States played into by subsequently attacking Afghanistan.*⁴⁶

Many real political grievances can motivate terrorists: U.S. support for Israel’s brutal occupation of Palestine, the U.S. invasion and destruction of Iraq, the sanctions preceding the Iraq war that killed as many as half a million people, the ongoing U.S. support for repressive governments, and so on. While none of these grievances justify terrorism in any way, they nonetheless provide the oxygen that is fueling attacks against the U.S. and its allies. Explaining to these terrorists that Islam condemns their methods is ineffective because Islam is not their motivation, despite what their propaganda says. While Muslim scholars can continue to make the obvious case against terrorism in the name of Islam, a three-pronged approach to challenging terrorism is needed: a sustained effort to advocate for humanitarian policy reforms in the Muslim world; challenging failed and unjust U.S policies and actions that create fertile grounds for terrorist recruitment; alongside a continued delegitimization campaign against the warped criminal enterprises that recruit vulnerable individuals to engage in indiscriminate violence for the advancement of said enterprises in the name various causes they hijack.

⁴⁵ Ibid. 3.

⁴⁶ Schwartz, Joseph M. "Misreading Islamist Terrorism: the "War against Terrorism" and Just-War Theory." *Metaphilosophy*. 35.3 (2004): 273-302, 284.

Conclusion

The texts of the Quran and Sunnah make clear that waging war is only permissible as a response to aggression and persecution, to prevent a greater evil. Islam adheres to the non-aggression principle, that no person or animal should be harmed unless such harm is necessary to secure a greater benefit or to prevent a greater harm. On this basis, the Quran mandates military intervention to assist the oppressed, preemptively if required. Islam strictly prohibits the intentional targeting and killing of any civilians or noncombatants or destroying their property, unless a careful military calculus determines that the risk of collateral damage is morally acceptable. Prisoners of war are to be treated humanely, integrated into the wider society, and given realistic avenues to secure their freedom through a reasonable expectation of labor. Deterrence against the enemy, by telegraphing a credible response capability to unprovoked hostility, is encouraged as a means of keeping the peace. Terrorism, by contrast, is a reprehensible tactic that is a violation of both fundamental Islamic teachings and modern just war theory.