ETHICS OF WAR IN MUSLIM CULTURES

A CRITICAL AND COMPARATIVE PERSPECTIVE

DOCTORAL THESIS

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ABSTRACT

Rules of engagement, ethics of war, and codes of chivalry are all phrases which remind one of human attempts to rein in and regulate what is perhaps the most anarchic and illogical of all human activities: organized war. The role of the great religions of the world both in propagating war through crusades and jihāds as well as their attempts at transcending its savagery through images of *miles Christianus* or the pious *ghāzī* has also been much discussed. The aim of this thesis is to study the ethics of war in the context of Islamic societies in the Early Middle Ages from several complementary perspectives. Our sources for the period vary greatly from decade to decade and from region to region. This has often led historians of ideas and mentalities to concentrate on one aspect to the exclusion of others. This is particularly so in the case of ethics of war where most of the argument seems to concentrate on a few passages from the Qur'ān, supplemented by some quotations from manuals of ḥadīth and commentaries on them in the legal textbooks of the different religious schools. That all these are crucial for an understanding of Muslim attitudes and reactions to war throughout centuries is beyond dispute. But it remains, nevertheless, a lop-sided view: neglecting large areas of debate and speculation in literature, philosophy, and mystical meditations, presented as fully-fledged arguments or as occasional remarks and observations embedded in the extant texts from the period. By evaluating these scattered sources and listening to the different voices heard through them, I hope to show some of the different attitudes and responses to the ethics of war and avoid the monolithic and doggedly timeless approach which, at its worst and most extreme, envisages a non-existing consensus among the Muslims from the rise of Islam to the beginning of this new century and neglects the evidence of regional traditions and innovative thinkers by relying solely on a handful of quotes.

ABSTRACT (FRENCH)

Les règles du combat, l'éthique de la guerre, les codes chevaleresques - autant d'expressions révélatrices des efforts de l'Homme pour maîtriser et réglementer celle qui, de toutes ses actions, est sans doute la plus anarchique et la plus illogique : la guerre organisée. On a ainsi pu démontrer le rôle des grandes religions du monde dans la propagation de la guerre par le biais des croisades ou *jihāds* s'efforçant de sublimer la sauvagerie de la guerre par la création d'images telle que celle du *miles Christianus* ou encore celle du *ghāzī* pieux. Le but de notre propos est d'examiner l'éthique de la guerre replacée dans le contexte des sociétés islamiques du début du Moyen Age, en adoptant diverses approches qui se complètent les unes les autres. Les sources dont nous disposons pour cette période varient considérablement d'une décennie et d'une région à l'autre. Ces variations ont souvent amené les historiens des idées et des mentalités à se concentrer sur un seul aspect, à l'exclusion de tous les autres. C'est tout particulièrement le cas en ce qui concerne l'éthique de la guerre, où l'essentiel de l'argumentation employée paraît se fonder uniquement sur quelques passages choisis du Coran, complétés par des citations des manuels de *ḥadīth* et les commentaires sur ces derniers que l'on trouve dans les manuels légaux des diverses écoles religieuses. Il est certes essentiel de prendre en compte ces dernières sources pour comprendre les attitudes des Musulmans et leurs réactions face à la guerre à travers les siècles . Mais cela n'en est pas moins une optique partiale qui ne montre qu'un seul aspect des faits. Elle choisit en effet d'ignorer de vastes domaines qui laisse la place au débat et à la conjecture, tant dans la littérature et la philosophie que dans les méditations de mystiques, qui se présentent sous la forme soit d'arguments pleinement développés, soit d'observations passagères, insérées dans des textes de l'époque qui nous sont parvenus dans leur entièreté. C'est en évaluant ces sources éparpillées et en écoutant les diverses voix que l'on peut y percevoir que ce travail se propose d'examiner ces attitudes et réponses diverses et variées à la question de l'éthique de la guerre, afin d'éviter l'optique monolithique qui s'est obstinément perpétuée à travers les temps et qui, à son pire et dans les cas les plus extrêmes, envisage

l'existence d'un soi-disant consensus - en réalité entièrement fictif - parmi les Musulmans, depuis la naissance de l'Islam jusqu'au début de notre siècle, et choisit d'ignorer totalement la présence bien attestée de traditions régionales et de penseurs fort innovateurs.

CONTENTS

A Memorable Sāmānid War

Maḥmūd Ghaznavī's Seasonal Wars

The Mongol Eruption: A Drastic Change in War Ethics

Comparative War Ethics: A Medieval Perspective

The Comparative Causes of War: *Jus ad Bellum*

The Comparative Qualities of War: *Jus in Bello*

The Treatment of Prisoners of War

Booty

Combatant and Non-Combatants

A Global Perspective

Chinese and Islamic Methods of Peacekeeping: A Striking Similarity

Conclusions

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TRANSLITERATION TABLE

Consonants: ٴ initial: unexpressed ٴ medial and final: '

Arabic	Arabic	Persian	Turkish	Urdu		Arabic	Arabic	Persian	Turkish	Urdu
ب	b	b	b	b		ص	ṣ	ṣ	ṣ	ṣ
ﭖ		p	p	p		ض	ḍ	z̤	z	z̤
ت	t	t	t	t		ط	ṭ	ṭ	ṭ	ṭ
ث				ṭ		ظ	ẓ	ẓ	ẓ	ẓ
ث	th	s̱	s̱	s̱		ع	ʻ	ʻ	ʻ	ʻ
ج	j	j	c	j		غ	gh	gh	ğ	gh
چ		ch	ç	ch		ف	f	f	f	f
ح	ḥ	ḥ	ḥ	ḥ		ق	q	q	ḳ	q
خ	kh	kh	ẖ	kh		ك	k	k	k	k
د	d	d	d	d		گ		g	g	g
ڈ				ḍ		ڭ			ñ	
ذ	dh	ẕ	ẕ	ẕ		ل	l	l	l	l
ر	r	r	r	r		م	m	m	m	m
ڑ				ṛ		ن	n	n	n	n
ز	z	z	z	z		ں				ṇ
ژ		zh	zh	zh		ه	h	h	h	ḥ
س	s	s	s	s		و	w	v	v	v
ش	sh	sh	ṣ	sh		ي	y	y	y	y

Vowels, diphthongs, etc. (For Ottoman Turkish vowels etc. see separate memorandum.)

short: ◌َ a; ◌ِ i; ◌ُ u.

long: ا ā; و ū, and in Persian and Urdu also rendered ō; ي ī, and in Urdu also rendered by ē; ے (in Urdu) e.

alif maqṣūrah: ی á.   diphthongs: ◌َي ay; ◌َو aw.

long with tashdīd: ◌ِّي īya; ◌ُّو ūwe.   tā' marbūṭah: ة ah; in iḍāfah: at.

INTRODUCTION

> "...the errors I may make as I write can be corrected without harm to anyone, but those that are made by them (warriors) as they act cannot be known except with the ruins of empire."
>
> Niccolo Machiavelli[1]

Preliminary Remarks

The great Chinese philosopher Lao-Tzu said, "I only wished that grown-ups in war were like kids, with no permanent hatred, with utter impatience to resume friendship." The history of the world's civilizations and their relations however, shows that unfortunately the 'grown-ups' have still a long way to go before they reach kid's maturity in the realms of war and peace. But the above history is also reflective of many hard and sincere endeavors, on the parts of prophets, philosophers, ethicists, war strategist, and even profeional warriors, to contain war tragedies, and to find more civilized or kids' ways of conflict resolution.

In our critical beginning years of the 21st century, while the world is still witness to so many wars and conflicts, some of which ethically far worse than the caveman or medieval wars, there seems to be an urgent need to revisit the above endeavors; and through a search in the ashes of the past, see how the true essences of humanity and all moral systems, have been best revealed when they were tested during a personal or collective conflict.

The focus of the thesis is on a critical overview of the ethics of war, actual and ideal, and the way they are presented in Islamic cultures, with some detailed analysis of specific writers and texts. The term Islamic is used here in its widest sense, somewhat akin to Marshall C. Hodgson's coinage "Islamicate," to denote civilizations and historical periods in which Islam as a religion played a pivotal role in the formation of communal beliefs and laws but without, on the other hand, treating Islam itself as a fixed and immutable entity. The Islamic dimension, admittedly a nebulous concept in

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[1] Niccolo Machavelli, *Art of war*, Translated, edited, and commentary by Chritopher Lynch, (Chicago and London: The University of Chicago Press, 2003) 4.

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itself, proved malleable enough to be influenced by other factors and traditions at work: some local and of an ancient lineage and some external and immediate. In the light of this proviso a series of inter-related questions will be posed concerning the way wars were conceived and conducted: What were the models, and what were the ethical norms? How much were they an implicit criticism of what the writers felt were unacceptable conduct in the wars they had been involved in directly or indirectly? What were the influences of specific major historical figures on the ethics of war? What were the sources of legitimization and justification? How did Islamic notions concerning war as laid down in the Qur'ān and the Ḥadīth influence the ethics of war? How, in the course of the medieval centuries, did philosophy, literature, and historiography affect the same ethics? What are the tools of conceptualization used by modern scholarship in viewing Islamic ethics of war and how helpful, thought provoking, and comprehensive are they?

Through a critical reading of different texts, written in different genres and for different audiences but all pertaining to the conduct of wars, this thesis will examine the wide spectrum of theoretical approaches and practical attitudes regarding war ethics, the justifications and causes of war (*jus ad bellum*) and the methods of war's conduct (*jus in bello*), and assess their comparative significance and social and moral content.

This inter-disciplinary approach should also serve as a corrective to the one-dimensional approach, all too common in scholarship on Islamic countries, which perceives of the complex culture and history of Islamic lands through strictly legal or political perspectives and considers a paraphrase or recital of some standard legal texts as sufficient explanation for a host of complex historical issues and ethical decisions.

Islamic law and the writing of the jurists, for various historical reasons, have overshadowed Islamic philosophy and its two branches namely speculative wisdom (*al-ḥikmat al-naẓariyya*) and practical wisdom (*al-ḥikmat al-'amaliyya*) including ethics, and have been emphasized by later scholars at the expense of other disciplines . The topic of 'ethics of war in Islam,' for example, is mentioned in scattered pieces, often for some polemical reason, without any judicious attempt at presenting it as an independent and significant topic, worthy of being studied as a whole.

In this thesis these scattered pieces will be brought together with the aim of achieving three connected objectives: 1) demonstrating the wider implications of notions of war and thereby extricating the debate from the exclusive grip of Islamic law; 2) presenting a diachronic account of theories of war; 3) and through this wider historical understanding, point to some current distortions and ideological crudities that one encounters in current literature on Islamic ethical views on war and jihād.

The above objectives do not, as will be demonstrated in chapter four, imply a clear-cut and unbridgeable dichotomy between ethics and law. Such a border is hard to draw. But in an Aristotelian sense of the pre-eminence of ethics over law,[2] this enquiry will also look for these Aristotelian moments, in the hope of finding instances in history and theory when, faced by the grim decisions between life and death, people have chosen humane options beyond prescribed norms and laws and manifested forgiveness, magnanimity, and humane acts when least expected.

Overview of the Content

Chapter One examines the history of the wars at the time of the Prophet, their conduct and underlying ethics, and those of the wars by his companions and immediate successors. The chapter's main task is to assess the impact of the personal characters of the influential early figures of the Islamic state, their approach to war and peace, and their specific interpretation and implementation of the Islamic laws of war that reflects their specific war ethics.

Chapter Two looks at war ethics in the Qur'ān not only through the conventional perspective but also through verses that have received much less attention by classical or contemporary exegetes of this Scripture while dealing with the topic of jihād (holy war). The main purpose of the chapter is to look for the main causes for enmity and war in the Qur'ān from both the descriptive and the normative perspectives. By a critical

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[2] Aristotle asserted that a society based on friendship has no need for justice (*1155a*). Aristotle, *Nicomachean Ethics*, 2nd ed., trans. Terence Irwin (Indianapolis, Indiana: Hackett Publishing Company, Inc., 1999) 120. The full phrase reads: "…if people are friends, they have no need of justice, but if they are just they need friendship in addition; and the justice that is most just seems to belong to friendship."

review of classical and contemporary works of exegeses, the chapter will also explore the Scriptural war goals and its limits in the light of vastly divergent views that have the pacifist Ṣūfi position on the one extreme and those who favor perpetual war on the other.

Chapter Three deals with Shīʿī writings on war. It provides an analysis of such historical landmarks as ʿAlī Ibn Abī Ṭālib's predicament at Ṣiffīn (657 CE) and Ḥusayn Ibn ʿAlī' martyrdom at Karbalāʾ (680 CE). It also provides a critical reading of a selective sample of the Shīʿī *ḥadīth* literature and its implications as well as a critical review of modern Shīʿī scholarship including works by Ṭabāṭabāʾī (d. 1985), Iskandarī, Muḥaqiq-Dāmād, Muṭahharī (d. 1979) and Ṣāliḥī-Najafābādī (d. 2006).

Chapter Four deals with philosophical, theological and mystical approaches to war ethics. War at it roots starts with the conception of 'self' in contradistinction to 'others.' Through comparing some Western and Islamic theories of ethics, this chapter will study their similarities, differences, and the theoretical implications of these theories for the ethics of war. Since the very discipline of 'theoretical ethics' (*akhlāq-e nazarī* in Persian) is traditionally a branch of philosophy in the Islamic curriculum, the chapter is intended to lay the foundation for some of the main tenets of this thesis. Views relevant to war in major Islamic theological schools such as the Ashʿarī and the Muʿtazilī schools and of moral philosophers, and Ṣūfīs such as al-Fārābī (d. 950 CE), al-Ghazzālī (d. 505/1111), Ibn Miskawayh (d. 1030 CE), al-Tūsī (d. 1274 C.E.), Rūmī (d. 672 AH/1273 CE) and Ibn al-ʿArabī (d. 1240 CE) will be discussed.

Chapter Five studies the ethics of war in the didactic works of *adab* literature, such as those by Niẓām al-Mulk (d. 485/1092), Fakhr Modabbir (d. 602 AH), Kai Kāvūs Ibn Iskandar (d. 1085CE), Muḥammad Rāwandī (d. early 13th century CE), and Muṣliḥ al-Dīn Saʿdī (d. 1291CE). Also, references will be made to the most important work of epic literature in the Eastern lands of Islam namely the *Shāhnāmeh* of Ferdowsī (d. 411/1020), which in itself can be regarded as a compendium of ethics. The *adab* genre provided a perfect medium through which its learned authors could express their ethical

concerns obliquely at a time when the perennial threat of being accused of heresy and blasphemy, proved an effective gag on open discussions. Written at courts with the intended aim of pleasing the prince, they could also influence the moral behavior in war of the most important figures on the battlefield, the Amirs and the Sultans, who frequently engaged in wars for land or booty. The chapter will also look at the mythical and pre-Islamic store-house of anecdotes and legends which the composers of these works (often referred to as 'mirror for princes' or (*Naṣīḥat al-Mulūk* or *Siyar al-Mulūk*) often cited as sources of authority and legitimization for their moral and political discourse.

Chapter Six develops directly from the previous chapters and discusses various Western theories on war as well as the ethics of Islamic jihād in theories and traditions, and provides a brief comparative history of their relative developments. Reference will be made to the stimulating and sophisticated debates that have been taking place in the west on theories of the just war. Although the Islamic scholarship on this topic, under the general rubric of 'jihād,' and in the form of collected canon law is a few centuries older than its Western equivalent,[3] in recent centuries it has remained stagnant by comparison, and has mainly contended itself to an uncritical recital of past stances.

The impact of various Islamic schools of jurisprudence, exegeses and political philosophy on the theory and the practice of war ethics will be discussed in this chapter along with a critical reading of selective parts of the most important *Siyar* literature on laws of war in Islam written by al-Shaybānī (d. 187/803). The last part of the chapter will examine three distinctly different theories of Islamic war ethics and their relationship and relevance to some of the modern Western theories.

Chapter Seven surveys the ethics of war among irregular military professionals, such as '*ayyārs*,' whose ideals came from a fusion of Islamic and pre-Islamic norms and traditions. This chapter will explore the Persian concept of *javānmardī* as a moral discipline and its possible relations to, and influence upon, the medieval European

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[3] It should be noted that 'just war,' and 'jihād' as discussed in the early chapters of this thesis, are not necessarily and technically equivalent.

institution of chivalry. The chapter also refers to the military life of the epitome of Islamic medieval chivalry, Ṣalāḥ al-Dīn Ayyūbī (d. 589/1193) and his European opponents.

Chapter Eight will take a critical look at the conduct of the Muslim caliphs, Amirs, and Sultans by examining a selective sample of medieval wars as narrated in various medieval historiographies. In the last part, this chapter reviews a major and authoritative military sourcebook in order to provide a basis for an overall evaluation of the Islamic war ethics in comparison with other medieval cultures.

Some Methodological Considerations

The methodology in this enquiry is primarily inductive, rather than deductive. The scope of the enquiry in this thesis is geographically limited to the Eastern lands of Islam and specifically to medieval Syria (during Ṣalāḥ al-Dīn's reign), Iraq and Iran including Tranoxiana.

Historically it is limited to the pre-Mongol period for the Mongol invasion provides a sharp break with the past and drastically changed many notions of warfare and its ethics. The thesis attempts to provide an analysis of Shīʿī views; but even here limitations of space precludes any extensive description of the ethics of war from the dynastic perspective of the Būyids, Ḥamdānids and Faṭimids.

The theoretical approach, as reflected in various chapters, and technical terminologies used in the entire text are modern. The comparative approach of the thesis employs from time to time, nonnormative notions of descriptive ethics, as certain behavioral patterns in wars are considered; and metaethics, as key ethical terms are treated. The text also deals with catagories that correspond to normative teleological ethics, when the consequences of wars are discussed; deontological ethics, when conflicts between certain duties arise; virtue ethics, when historical characters are analyzed and applied ethics, when war is looked at as a specific field of human activity. The sources are generally mixed primary and secondary.

Given the broad scope of the topic and its various aspects, it was unavoidable to be selective in viewing the works of so many thinkers in each field. However the

selections made of both characters and sources were besed on the specific criteria of choosing the most influentials in each area. There are too many exegetes, theologists, philosophers, poets, historians, ethicists and sources to be all accounted in this single volume. On the other hand, in order to arrive at specific theories of just war in Islam, reflective of the most predominant intellectual and virtual trends in various fields, there was a need for a macro picture of these trends in Islamic history. Therefore a compromise had to be made between too much details and a macro perspective of war trends in Muslim cultures. This thesis does not claim to have an accurate account even of all trends, but it is an endeavor to discern the major ones or at least to provide enough material for war theorists.

The transliterations in this thesis generally follow the standards of the Institute of the Islamic Studies, McGill University, except the Persian proper names that follow the standard of the Encyclopaedi Iranica.

CHAPTER ONE

PROPHETIC WARS, PURPOSES AND CHARACTERS

> I was sent to perfect noble qualities of character
> Prophetic ḥadīth[4]

> Verily thou art a man of great character
> The Qur'ān, 68:4

This chapter will touch on major issues related to the circumstances of war and peace during the Prophet's lifetime. Because of his position as leader of the Islamic community, his sayings and actions established certain ethical standards for the Muslims of later eras.

The first question to consider is the matter of the cause or causes of war, known in Western literature as *jus ad bellum*. This inquiry will look into the main possible causes of the Prophetic wars, that is, the wars during the Prophet's lifetime, and will seek to analyze them from an ethical perspective. It will also briefly examine normative standards based on direct Prophetic orders about the conduct of war or *jus in bello*. This discussion will consider, moreover, the influence of ideological prejudices, in particular, whether Muslims treated Jewish tribes differently from other religious minorities.

Finally, this chapter will treat patterns of behavior, specific models of conduct, and discrepancies in the conduct of the Prophetic warfare taking place either with the Prophet's participation (27 *ghazw*s), or his order and consent (47 *sariyya*s).[5] The aim, in a spirit of the Aristotelian virtue ethics, is to show the various, and sometimes very conflicting, attitudes of the Prophet's companions vis-a-vis the Islamic laws and ethics

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[4] This ḥadīth is found, with a small variation of wording , in Mālik, al-Muwaṭṭa' and many Shī'ī sources.

[5] Note should be taken that *ghazw* or *sariyya* are used within the primary historians for a wide range of hostile confrontations from low-scale tribal raids that sometimes do not involve armed conflict to full-scale and large scale wars. Among the altogether seventy-four campaigns that are reported to have taken place since the advent of Islam until the demise of the Prophet, there are only a handful of cases that can be called wars in the contemporary sense. However, in order to avoid the usage of too many various terms (i.e. campaign, war, battle, foray, *razzia*, corresponding with the Arabic terms *ghazw, sariyya*, jihād, *qitāl* etc.), this work will use the word campaign and/or battle.

of war, were largely rooted in their personal dispositions, and not in the Prophet's normative standards.

The nuances of the cause(s) of war (*jus ad bellum*) and the rules of engagement (*jus in bello*), depending on the 'cosmology' or the 'worldview' of the warriors, are numerous. If the main mission of the Prophet, as reflected in the abovementioned ḥadīth, were to 'perfect the noble qualities of character,' nowhere else does the true nature of this character (in its broader sense, the Muslim character) may manifest itself more than it does in war, where the risk to life is at its height. The ethics of war is the most difficult of all fields of ethics in action, for the warrior must simultaneously fight against his enemy and also against the wild passion within, anger. This control of the self which is required to attain a higher goal in life is a major part of what most religions claim to seek.

The Cause, or Causes, of Early Muslim Wars

There is a controversy among some modern scholars on the legitimate causes of war in Islam; notably, many contemporary Muslim scholars have an increasing tendency to consider the only legitimate cause of war as defensive. However, this tendency tends to become an apologetic stance. As Rahman points out:

> It is historically unacceptable, as some modern Muslim apologists have done, to pretend that the expansionist jihād of early Islam was purely defensive. Yet it is only the extremist Khārijites who have declared jihād to be one of the 'pillars of the faith."[6]

Almost from the outset, Shīʿī jurists have controlled jihād by rigorously restricting leadership of the faith community. They limit the right to declare jihād solely to the occulted Imam, thereby de-legitimizing primary (offensive) wars after his occultation in 260 AH/ 874 CE. The views of some modern Sunnī authorities have been mentioned in the preceding chapter; more critical details on both the Sunnī and the Shīʿī views will be provided in Chapters Two and Six.

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[6] Fazlur Rahman, *Islam* (New York: Doubleday, 1968) 34.

Despite the defensive and ideological contentions of many Islamic modernists, an investigation into the causes of the Prophetic wars, gathered from early war chronicles, shows a range of causes among which are defensive, pre-emptive, economically driven, punitive, liberating, and ideological. Scholars such as Donner, by focusing on the socio-economic milieu of Northern Arabia, have expanded these causes to include, for example, the war-game traditions of the pre-Islamic Arab tribes.[7] Similarly, al-Wāqidī's accounts of the Prophetic wars also reflect the range of causes rather than a single-cause theory. Some scholars have come to the conclusion that Islam sanctions both ideological warring (jihād) and the political subjugation of other nations as legitimate and rewarding ends.[8]

This argument holds, however, that the campaigns in the formative period of Islam support different views about jihād. The Prophet did not encourage raiding in a manner which would have offended the sensibilities of the Arab tribes; rather, he channeled their energy in a direction which reinforced and protected the new Islamic State. Had the Prophet been able to control the warring energy of the Arab tribes, protect the Islamic state, and find opportunities to reach out to the common people throughout the peninsula, he would likely have avoided most of his campaigns.

The al-Ḥudaybiyya peace treaty with the Meccan polytheists negotiated in the year 628 CE, against the resistance of his chief companion 'Umar b. al-Khaṭṭāb, demonstrates the Prophet's peaceful intentions. 'Umar, who later became the second caliph, insisted on fighting the Meccans to such a degree that he came close to deserting the Prophet and Islam altogether.[9] According to al-Wāqidī, several other companions also were opposing the Prophet against the concessions he was giving to the Meccans in

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[7] Donner, "The Sources of Islamic Conception of War," 36.

[8] Bassam Tibi, as will be discussed in details in chapter six, holds this view which has its roots not only in the works of medieval Islamic jurists, but also in the views of the modern fundamentalist theologians who look at jihād as an effective instrument of domestic and international insurgence.

[9] Al-Wāqidī refers to several reports including a few direct quotations from 'Umar saying that if he had had a few people on his side opposing the peace treaty, he would have left the Islamic faith altogether as he felt quite humiliated by making peace with the polytheists when they were powerful enough to fight. See Muḥammad b. 'Umar, *Al-Maghāzī: Tārikh-e Janghāy-e Payāmbar*, 2nd ed., trans. Maḥmūd Mahdavī Dāmghānī (Tehran: Markaze Nashre Daneshgahi, 1990) vol.2, 461-63. Also see *The Encyclopedia of Islam*, 2nd ed., s.v. "Ḥudaybīya" by W. Montgomery Watt.

the very text of the peace treaty.[10] In this case, the Prophet conducted peace with his opponents, and in doing so went against the wishes of many of his closest Muslim companions. His actions mark his clear preference for peace over combat.

The al-Ḥudaybiyya peace treaty was supported both by scripture and statements ·of the Prophet and a few of his chief companions, as the most important victory (*fatḥ*) in the whole history of Islam.[11] In the Qur'ān, chapter forty eight, verse one refers to this occasion as a clear victory "*fatḥan mubīnā*."[12] Indeed, these assertions demilitarize the notions of victory. Although the treaty did not last for more than twenty-two months, it was originally signed for the duration of ten years, thus showing the lack of any intention by the Prophet to be in conflict with the Meccans for a significant length of time.

The Prophet, moreover, established peaceful relations with the Christian state of Abyssinia (*Ḥabasha*).[13] Abyssinia had provided a safe sanctuary for many early Muslims before the foundation of an Islamic state at Medina. This Prophetic legacy of peaceful relations with a Christian neighboring state was observed long after the demise of the Prophet's normative example, which was contradicted by the tendencies of the first three Caliphs in their vast and monumental conquests towards all geographic directions. Most of the primary chronicled accounts of early Islam, as reflected in the works of al-Wāqidī, Ibn Hishām, Ibn A'tham, al-Ṭabarī, as well as many exegetical commentaries

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[10] Al-Wāqidī, *Al-Maghāzī*, 464.

[11] According to Ibn Isḥāq, the al-Ḥudaybiyya peace treaty was important because it gave the early Muslim community a unique immunity from war, and allowed them to spend the entire following twenty-two months before the fall of Mecca engaging in a vigorous outreach program. The result was the outgrowth of the Muslim warriors from fourteen hundred at the time of the peace treaty, to more than ten times in less than two years. For more on the reports of Ibn Isḥāq, see Ibn Isḥāq's *Sīra*: Rafi ' al-Dīn Isḥāq Ibn Muḥammad Hamedānī, trans., *Sīrat-e Rasūlullāh* (Tehran: Nashr-e Markaz, 1985) 413.

[12] Al-Wāqidī quotes both Abu Bakr and 'Umar to have conceded later on that there has not been a conquest/victory in Islamic history greater and more important than the al-Ḥudaybiyya Treaty. Al-Wāqidī, *Al-Maghāzī*, 464. Also, Ibn Mas'ūd is reported to have said in reference to Q.48:1 that "you (people) consider the conquest to be that of Mecca, but we consider it to be that of al-Ḥudaybiyya".

[13] Ḥadīth three of Chapter Fourteen of the Shī'ī rulings on jihād (book of jihād) asserts that the Prophet prohibited war with Abyssinians. See Muḥammad Ibn al-Ḥasan al-Ḥurr al- 'Amilī, *Wasā'il al-Shī 'a ilā Taḥṣīl Masā'il al-Sharī'a*, vol.6, ed. Sheikh Muḥammad Shirazi (Beirut: Dār Iḥyā' at-Turāth al-'Arabi, 1382 AH) 42.

and ḥadith collections, provide a wide range of Prophetic forecasting on the future conquests of the Muslim nation (*umma*).[14] However, such alleged predictions, whether authentic or not, are far from compulsory Prophetic instructions, and thus fail to provide a legal ground for warring justifications. The only Prophetic quotation that comes close to this realm is reflected in the reports on the last political will of the Prophet in his final days, where, according to al-Ṭabarī, the Prophet asserted that all polytheists must be driven out of the Arabian Peninsula.[15] Yet, there is no mention whatsoever of the Prophet conceiving of campaigns outside of Arabia.

His campaign against the Romans at Yarmūk (*ghazwa*) did not actually result in fighting. It was initiated as a defensive measure on the basis of reports claiming that the Roman Emperor Heraclius was preparing forces to confront the Muslim state in Medina.[16]

Similarly, the unsuccessful battle of Mu'ta war in 8AH resulted from the murder of an emissary that the Prophet had sent to the Arab tribes in Syria inviting them to join Islam. This venture was followed two years later by a campaign which the Prophet ordered but did not live long enough to witness. Apparently, the main focus of both Mu'ta wars was to reach out to Pagan or Christian Arabs.[17] The Prophet never issued a

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[14] These prophecies are in concordance with the Qur'ānic prophecy referred to by Q.30:2-4, regarding the defeat of the Persians by the Romans which eventually paved the way for the Muslim warriors to conquer both lands. Ibn Isḥāq narrates from 'Adī Ibn Ḥatam Ṭā'ī, who narrated the following from the Prophet: "I swear to God who created me that the time is near when the palaces of Caesars (Roman emperors) and the treasures of Kisrās (Persian kings) will all belong to my community (*umma*), and from East to West and the borders of Babel to Andalusia will all be the territory of Islam." See Hamedānī, trans., *Sīrat-e Rasūlullah*, 515.

[15] Moḥammad Roushan, ed., *Tārīkhnāme-ye Ṭabarī*, vol.3, (Tehran: Soroush Publications, 2001) 327. This is a 963 CE Persian translation attributed to Bal'amī.

[16] Al-Wāqidī, *Al-Maghāzī*, vol.3, 774. Apparently, the aborted Yarmūk campaign, planned on some misinformation, proves the point mentioned by Kadīvar in the previous chapter namely that when it comes to the non-sacred domains of social life, even prophets are not infallible. This is also asserted by Ṭabāṭabā'ī who maintained that the Prophetic decisions on war were essentially of a consultative nature rather than of revelations. See Mohammad Ḥusayn, Ṭabāṭabā'ī, *Shī 'ah: Les Entretien et les Correspondances de Professeur Henry Corbin avec 'Allāmah Ṭabāṭabā'ī (Persian)*, 4th ed. (Tehran: Mu'assese Pazhuheshi Hekmat wa Falsafeh Iran, 1383/1984 CE) 212.

[17] Al-Wāqidī, *Al-Maghāzī*, vol.2, 576 and vol. 3, 873.

legally binding decree that there must be a military campaign outside the Arabian Peninsula.

This leads to the conclusion that none of the Prophetic wars were aimed against non-Arab nations. The only ideological problem raised by such conclusion is that Islam, like Judaism, should have been primarily concerned about a certain people and a specific territory—namely the Arabs and the Arabian Peninsula. This is totally incompatible with so many Qur'ānic verses that instead of focusing on the Arab people, address the entire humanity. True, but the universality of Islam does not entail use of force as an effective means of conversion. The mere historical events following the Prophet can not be counted as a universal legal basis for the legitimization of the ideological primary (offensive) wars. The diverse postures of various Islamic legal schools on war, and also the arbitrary nature of war initiatives conducted by early caliphs leave no consensual ground in Islam for primary (offensive-expansionist) wars.[18] In other words, there are no legal and logical correlations between the universality of Islam and primary wars as its means.

Another striking aspect of Prophet's campaigns was the highly consultative nature of his leadership. Most of the primary reports and chronicles assert that the Prophet did not fail to consult about both the initiation and the strategy of war with his companions. There are a few campaigns where the Prophet followed the strategy recommended by the majority against his own will and at very high costs in defeat and casualties.[19] Notably, there is no report, to the extent of this author's knowledge, which

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[18] It is known, according to al-Wāqidī (and various other reports) that 'Umar b. al-Khaṭṭāb, 'Uthmān b. 'Affān, Sa 'd b. Abī Waqqāṣ, and Abū 'Ubaida b. Jarrāḥ severely opposed the second Mu'ta war on the basis that the reinforcement of post-prophetic Islamic authority in Arabia has priority over remote ventures. This position, however, was defeated by Abū Bakr by saying that the war was sanctioned by the Prophet and no other concerns may delay its execution. See al-Wāqidī, *Al-Maghāzī*, vol.3. pp. 856-7. It is also known that the second Caliph 'Umar severely opposed to any marine expedition given his personal fear of water, thus Mu'āwiya b. Abū Ṣūfiyān had to wait for the renewal of his rejected initiative towards Cyprus till 'Uthmān came to power. For the full account of this story, see the al-Futūḥ of Ibn. A'tham, in Heravī, Muḥammad b. Aḥmad Muṣtowfī, *Al-Futūḥ: A 13th Century Persian Translation*, ed. Majid Gholāmreḍa Ṭabāṭabā'ī (Tehran: Sherkate Entesharate Elmi va Farhangi, 2001) 293.

[19] See the cases of the Uḥud war where the Prophet did not like to leave Medina and take the war to the outskirts, but followed the view of the majority against his own will and the subsequent heavy toll of seventy martyrs in that war. See Al-Wāqidī, *Al-Maghāzī*, vol.1, p.152. Also look at the Ṭā'if war, in Al-Wāqidī, *Al-Maghāzī*, vol.3, p.713.

claims that a warrior was actually forced to join these wars. In other words, the Prophet's example illustrates that no spiritual reward can be produced under compulsion of participating in such campaigns.

The question then is what justifies the imposition of political hegemony over the all Arab lands and peoples? It seems that given the volatile socio-economic mold of tribal Arabic nature, the only feasible solution to ensure stability entailed the union, albeit hegemonic, of the Arabs under one government. The early inclusion of the various Jewish tribes of Medina in the *umma* supports this notion.

It seems therefore incorrect to conceive of warring in Islam as a goal superior to the propagation of religion. The Prophet could not possibly, and was not willing to, completely reinvent the whole of Arab culture under the Islamic banner in such a short time. He could only modify the existing culture through a gradual process towards a moral ideal.

War and Prejudice

One question that lies at the core of any discussion about the causes of war is the role of ideological differences in determining both the quality and the severity of the war. There is ample scholarship, for example, on the history of Judaeo-Muslim cooperation and conflict in Medina during the early years of the Islamic state. The Medinese Constitution provided a reliable method for resolving conflicts among the residents of Medina and, in particular, a strong basis for Muslim and Jewish symbiosis.[20] However, once the constitution was breached by some of the Jewish tribes, a series of clashes ensued between the Muslims and the Jews. The main point here is to seek to understand whether alleged 'intrinsic ideological prejudice' influenced these clashes.

Christians, Jews, Sabaeans, and Zoroastrians were treated as legitimate 'others' in Islam, which afforded them the status of protected minorities (*dhimmī*) in the Muslim community. In principle there was no particular prejudice against any of them. Among the Jews, several groups managed to negotiate peace treaties with the Prophet, though

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[20] For the significance of the Medinese constitution, see Firestone, *Jihād*, 118.

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these sometimes ended in disagreement.[21] It is reported that during the Prophet's last military venture, known as the war of Tabūk, he passed through Syria and the Jewish village of Wādī al-Qurā', where the Jewish community of Banī 'Uraid sent him and his companions food as a gift. He reciprocated by sending the Jews, on an annual basis, forty camel-loads of dates. This assistance to the Jewish tribes of this oasis continued for several centuries.[22] When the Muslim army again passed through Syria, a Jewish woman took care of the horse of 'Ubaid b. Yāsir, one of the commanders of the Muslim forces. She subsequently received an annual stipend from him and the Islamic government which lasted for almost half a century.[23]

The first Christian-Muslim military encounter took place in 631 CE between the Christian chief Ukaider Ibn 'Abdulmalik, residing in the village of Dumat al-Jandal, and Khālid b. Walīd, a Muslim commander who was dispatched by the Prophet while the latter was still in Tabūk. It is important to note that despite Khālid's reputation as an aggressive military commander, the two negotiated a peace treaty followed by a cordial and formidable relationship. The Christian chief had agreed to pay the poll taxes (*jizya*) to the Islamic government. Out of respect for the Christians, the Prophet personally signed and sealed the permanent peace treaty. This encouraged at least five other Christian communities, namely Duma, Ayla, Timā', Jarbā' and Adhruh, to make binding peace treaties. The Prophet gave full immunity to these communities and stipulated within their agreements a penalty against any Muslim transgression of their rights.[24] The last Prophetic military venture in Tabūk was a pre-emptive strike based on misleading information regarding an invasion plan of Heraclius; however, this confrontation was aborted by the Prophet once he learned that he was acting on erroneous information.

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[21] The reported major conflicts were between the Muslims of Medina and the Banī Qaynuqā'(early 629 CE), Banī Nadir (early 630 CE), Banī Qurayza, the Jews of the Khandaq war (both 632 CE), the Jews of the Khaybar war (634 CE), and the Jews of Wādī al-Qurā', Fadak, and Taymā'.

[22] Al-Wāqidī, *Al-Maghāzī*, vol.3, p.766.

[23] Al-Wāqidī, *Al-Maghāzī*, vol.3, 787.

[24] Al-Wāqidī, *Al-Maghāzī*, vol.3, 785-6.

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On the other hand, the wars that were initiated in Syria during Abū Bakr's caliphate, as Ibn A'tham al-Kūfī has reported, did not spare the Christian prisoners from mass executions. These resulted from the foul moods and arbitrary choices of warriors like Khālid Ibn Walīd who gave no notice to the faith of their presumed enemy.

Such unpredictable wartime behavior apparently had little relevance to the faith of the presumed enemy or any principled, intrinsic, and systematic prejudice.[25] Rather, it had much to do, as will be explained, with the personal character of individual Muslim warriors.

The Rules of Engagement

The institution of systematic campaigns (*ghazwa* in the Arabic or razzia in European terminology) was part of the fabric of Arab tribal life long before the advent of Islam. This activity was considered legitimate since it represented a mechanism of economic survival for the Arabian nomads. The Prophet chose an incremental approach to bring about gradual change in the value system and habits of those who supported this institution.

The *ghazw* institution was essentially a multifaceted tradition which the Prophet tried to utilize to bring Arab unity on a new moral foundation. In doing so he faced a whole range of moral questions, such as the proper rules of engagement, *jus in bello*. Such questions concern both the causality and conduct of war.

Almost all chronicles and conquest literature on Muslim wars and conquest (*al-Futūḥ*) document two facts: first, pre-Islamic society, including the polytheists and other Arab religious minorities, already had rules of engagement,[26] and secondly, these

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[25] It is important to note that if the Muslim treatment of the non-Muslims in war had anything to do with the specific faith of the parties that the early Muslim encountered, the history of the Prophetic encounter with Jews and Christians of the Arabia should have been reversed. In principle, the Jewish concept of God's Unity copes much better with the most important cardinal principle of Islam than the Christian concept of Trinity. Why then were the early Jewish-Muslim encounters much more eventful than the early Christian- Muslim ones?

[26] According to Donner (35), "there appear to have been definite rules of the game in raiding that both sides were expected to observe in the interest of fairness; attacking noncombatants with lethal intent, for example, was considered bad ....Harming the women or children, of course, was probably considered a violation of the unwritten code of honorable behavior..." See Donner, "The Sources of Islamic Conception of War" 34-5. See also, Firestone, *Jihād*, where the author maintains that according to

rules were adapted quickly into a comprehensive system of Islamic norms of behavior, whether implemented fully or not.

There are numerous examples of such normative development; for example, Muḥammad b. al-Sabāḥ reports from 'Ubaidallāh b. 'Abdallāh b. 'Utbah that on the occasion of the conquest of Mecca, the Prophet made the following statement, "Slay no wounded person, pursue no fugitive, execute no prisoner; and whosoever closes his door is safe."[27] According to al-Wāqidī, during the war in Mu'ta, the prophet ordered the following:

> I advise you to be pious to God, and have goodwill towards your fellow Muslim; fight in the name of God, and in His way; fight only with those who are infidel to God; avoid deceit and treachery; do not kill children; and invite your enemy first to the three options of accepting Islam in which case the conflict terminates, ask them to leave their land in which case their rights will be observed like others, ask them to pay poll tax (*jizya*) in which case there is no cause for conflict; and prepare for the battle only if these first three options fail.[28]

Another report adds the following injunctions for the same occasion: "Never kill women, children, and old men; avoid invading monks and their sanctuaries; do not uproot palm and other trees; and do not demolish any dwelling house."[29] Perhaps the most succinct and yet all-encompassing Prophetic advice on war ethics is the following referred to by al-Tūsī:

ان النبى اذا اراد ان يبعث اميرا على سريه امره بتقوى الله عزوجل فى خاصه ثم فى اصحابه عامه ثم يقول:
إغزو بسم الله و فى سبيل الله قاتلوا من كفر بالله و لا تغدروا ولا تغلوا لا تمثلوا و لا تقتلوا وليدا ولا متبتلا فى شاهق
ولا تحرقوا النخل ولا تغرقوه بالماء ولا تقطعوا شجره مثمره و لا تحرقوا زرعا لانكم لا تدرون لعلكم تحتاجون إليه
ولا تعقروا من البهائم ما يوءكل لحمه الا ما لا بد لكم من إكله و إذا لقيتم عدوا من المشركين فادعوهم الى احدى
ثلاث فان هم اجابوكم إليها فاقبل منهم و كف عنهم.

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ancient South Arabian records, "reprisal operations were not uncommon…but the victors are rarely cited as massacring captive troops" (4). He also refers to retaliation (lextalion) or *qiṣāṣ*, a regularly accepted norm in pre-Islamic tribal wars (35).

[27] Abu'l Abbas Aḥmad ibn Jabir Al-Baladhurī, *The Origin of the Islamic State (Kitāb Futūḥ al-Buldān)*, trans. Philip Khuri Hitti, (Piscataway N.J.: Philip K. Gorgias Press, 2002) 66.

[28] Al-Wāqidī, *Al-Maghāzī*, vol.2, 577.

[29] Al-Wāqidī, *Al-Maghāzī*, vol.2, 578.

Whenever the Prophet decided to appoint an army commander, advised him first and then the rest to be pious to God, the Powerful, the Magnificent and uttered the following: "Fight in the name of God, and in the way of God. Fight whoever who has denied Allāh. And do not resort to treachery (breaking a covenant), do not exceed the bounds. Do not mutilate. Do not kill children nore the monks in their monasteries. Do not set palm threes afire, nor destroy them by flood. Do not cut any fruit trees nore set the farms afire for you never know you might need them. Do not kill eatable animals unless you have no other choice for food. And whenever you encounter your enemy from among the polytheists, first invite them to the three options. If they accepted, you should accept and secure them.[30]

In addition, two other provisions in these instructions stress the importance of respecting covenants and agreements. The Prophet also sanctioned pre-Islamic inter-tribal pacts of allegiance among newly converted Muslims. Al-Wāqidī reports soon after the conclusion of the al-Ḥudaybīyya treaty the Prophet decreed the following: "Now that you have converted to Islam, you may respect your covenants of friendship that you had before; all friendship pacts of the *'jāhilī'* (the pre-Islamic culture of Arabia) era will be fully respected by Islam as well, although we will not initiate similar new pacts under Islam."[31]

All sources stress the Prophet's insistence on the non-violability of treaties or pacts that Muslims, individually or collectively, concluded with other parties. This had strong scriptural backing with the Qur'ānic phrases of *ūfū bi'l 'uhūd* (fulfill your promises, pledges, vows) and *ūfū bi'l 'uqūd* (fulfill your contracts, pacts, treaties).[32] Not only did public contracts have to be observed but it was incumbent upon all Muslims to respect the personal commitments of their fellow Muslims. The implication of this practice in war was significant. It gave individual soldiers -irrespective of their military ranks- the power to grant amnesty (*amān*) to enemy combatants.

Another important war ethic, established from the time of the Prophet, was that Muslim forces could not initiate the actual battle; rather they had to wait until the

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[30] Muḥammad Ḥassan al-Tūsī, *Tahdhīb al-Aḥkām*, (Tehran: Dar al-Kutub al-Islamiyya, 1365/ 1987 CE), vol.6, 138, 139. See Al-Sayyid Ḥussay Ḥussaynī al-Zurbāttī, *Aklāq al-Ḥarb fī al-Islam, bayna al-Naẓariyya wa al-Taṭbīq*, (Qum: Entesharat Dar al-Tafsir, 2002) 69.

[31] Al-Wāqidī, *Al-Maghāzī*, vol.2, 594.

[32] See Q.70:32 and Q. 23:8. For a full discussion of this topic see Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 330-334.

enemy forces commenced attacking. This rule carried great moral significance since it signaled that warring was chiefly of last resort. It reflects the detested nature of war within Islam; a very significant negative symbol against the previous norm of a nomadic Arabia.

A Mirror of the Moral Shift: Revenge and Pardon

Perhaps one of the best criteria that shows the extent of the moral shift in the war ethics of Arabia before and after Islam is the way both the *jāhilī* (pre-Islamic Arab culture) and the early Muslims dealth with the value of individuals on the opposite sides of the battleground.

Firestone points to one of the *jāhilī* war norms as following: "Within the talion law (law of retaliation), however there was no equality. A hundred could be killed for one. ʿĀmir b. al-Ṭufayl is credited with the words, "We slew of them a hundred in requital for an old man…"[33] In other words the *jāhilī* culture had little sense of fairness in retaliation and had no sensible accounting for numbers and no limit in revenge and taking lives.

The full moral contrast is pointed by Moḥaqqiq-Dāmād. " When the polytheists killed Ḥamza Ibn ʿAbd al-Muṭṭalib in the battle of Uḥud and ferociously mutilated his corps," Moḥaqqiq asserts, "the Prophet was deeply affected by their action because Ḥamza was his uncle and the relative he loved most. Nevertheless, he never thought of mutilating the corps of an enemy in subsequent wars."[34] More impressive is that later on, the Prophet pardoned Ḥamza's killer and only expressed his wish not to see him ever again as Wāqidī reports.

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[33] Reuven, Firestone. *Jihād: the Origin of Holy War in Islam.* (New York, Oxford: Oxford University Press, 1990) 35.

[34] Moḥaqqiq-Dāmād, Moṣtafā. *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws,* (New York: Global Scholarly Publications, 2005) 412.

Ethics and Laws: Models of Right Conduct

As explained in more details in the Chapters Two and Eight, ethics, as a moral force, is superior to law. Law, by definition, is enforced by either a mundane or a divine power; ethics go beyond what the law prescribes. Within established Islamic legal norms, any transgression will lead to one form or another of pre-defined punishment. Law may also set, on rare occasions, provisions of reward. However, it secures the common and minimal requirements of humanity.

Ethics, on the other hand, promotes ideals. It encourages measures above obligation and expectation, and seeks the maximum potential of humanity. On the basis of this, a soldier or commander who acts according to laws of war is well disciplined, but once he acts in war, on a moral basis without fear of punishment or interest in reward, he enters the category of heroism.

Both the scripture and Prophetic tradition (*sunna*) contain detailed instructions on the ethical and legal codes of behavior in battles, though chronicles of the Prophetic wars are full of discrepancies. One can find many cases where individuals complied with these standards or even acted on the level of humanitarian heroism. There were also cases, on the other hand, where other individuals acted harshly or inhumanely and committed what in modern language is called war crime.

As such, it is important to recognize a few points. First, a full understanding of the laws of war, as they were newly introduced into Arabia's heterogeneous Islamic society, should be expected to emerge slowly—newly introduced norms can not lead to completely new behavior in very short spans of time. Secondly, just as people differ in their aptitudes and abilities so they differ in their understanding of the spirit of the law. For example, a warrior like Khālid Ibn Walīd, believed that physical domination over the target had much more priority than the details of life, death, and faith in any given battle. He was an accomplished warrior both before and after his conversion. Naturally, it was difficult to change the morals of such a warrior. Another instance was the warrior 'Alī Ibn Abī Ṭālib, who probably fought more wars than al-Walīd, but balanced his courage with compassion and was far more conscious in every single instance of battle, of justice than military victory. While the warrior Khālid Ibn Walīd acted outside of

Islamic humanitarian laws of war, 'Alī Ibn. Abī Ṭālib acted consistently within that standard and became its paragon.

In between these spectrums as demonstrated by the two warriors, there were various other prominent actors and warriors whose specific moral behaviors left a permanent imprint on the Muslim legacy in wars for the unforeseeable future. The following selective anecdotes may shed some light on this conclusion.

Khālid Ibn Al-Walīd, or 'God's Sword'

Khālid b. Walīd (d. 642 CE), known as 'God's sword' (*sayfullāh*) presents an interesting case in the evolution of Islamic morals. After the capitulation of Mecca, the Prophet dispatched Khālid to the Banī Jadhīma tribe in order to invite them to join Islam. Khālid took a few hundred troops composed of warriors from the Banī Sulaim tribe and a group from both the *Muhājirs*[35] and the *Anṣārs*.[36] Shortly before the arrival of, Khālid, the Banī Jadhīma learned of Khālid's mission. They reported that they were already Muslims, regularly performed their prayers, accepted Muḥammad as God's messenger, had already built mosques, and regularly perform the call for prayers (*adhān*). However, once Khālid had arrived, he noticed that they were all armed with swords; so he directed that they should immediately disarm and surrender to his troops. They responded that they were armed against a hostile tribe which had threatened them both on accounts of a long-standing hostility and their recent conversion to Islam. They demanded that they be treated like other Muslims, without need for disarmament and surrender. Khālid, nevertheless, insisted on their disarmament and once they complied with his orders, had their hands tied by his troops. Once they all had woken the next day to perform their prayer, the captives requested that they be temporarily released to perform the prayer along with Khālid's troops. This very request caused uproar. Khālid's troops then questioned the legality of capturing and imprisoning other Muslims. Khālid then ordered his troops to behead the few hundred captives. A section of his troops, from the Banī Sulaim, which held long-standing hostility toward the captive tribe did not waste any

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[35] The Meccan emigrant companions of the Prophet who settled with him in Medina.

[36] The Medinese resident companions of the Prophet.

time and started beheading them; however, the *Muhājirūn* and *Anṣār* did not follow suit. Instead, they released their captives. For them, the order to kill had no legitimate justification.

The tragic event was then presented to the Prophet and his companions; among them, 'Abdul-Raḥmān b. 'Awf vehemently criticized Khālid for the unfounded massacre and responded with the following: "May God kill you as you (Khālid) committed this crime only to settle an old *jāhilī* account and get even with the unfortunate captives, just because they killed your uncle Fākah in old wars."[37] When pressed, Khālid claimed that he had been ordered by an emissary of the Prophet to attack and plunder. 'Abdul-Raḥmān responded in anger and disgust that not only had Khālid committed a grave crime but had attributed a lie to the Prophet. The Prophet formally disassociated himself from the crime in a prayer, denied ordering the attack, and dispatched 'Alī Ibn. Abī Ṭālib to the bereaved tribe in order to give full compensation for its victims. 'Alī returned and reported that he spent much more than blood wit (*diya*), to the extent that he "paid for the loss of a broken bowl which was serving their dog-food".[38] According to Ibn Hishām, the Prophet, once informed about the incident, raised his arms so high that 'his armpits could be seen' and cried three times, 'O God, I am innocent before Thee of what Khālid has done!'[39] Apparently in this case, Khālid's and 'Alī's behaviors in war established a complete moral contrast; by modern standards, the former warrior could be considered a war criminal whereas the latter is a moral exemplar.

War and Epical Tragedy

The massacre of the Banī Jadhīma represents one of the most tragic and romantic episodes of the early wars in Islam. According to al-Wāqidī, late in the evening of the day of Khālid's assault against the Banī Jadhīma, members of that tribe's long-time adversary, the Banī Sulaim approached a young man who had incurred their anger in one of the earlier tribal wars. Caught unaware and not knowing what had happened to the

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[37] Al-Wāqidī, *Al-Maghāzī*, vol.3, 672.

[38] Al-Wāqidī, *Al-Maghāzī*, vol.3, 674.

[39] The story is depicted by Toshihiko Izutsu as a symbol of the *jāhilī* war ethics. See Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'ān*, (Montreal: McGill University Press, 1966) 30.

rest of his tribe, the young man resisted his attackers and even killed two of them while escaping. Early the next morning, however, having found that all of the women and children, including his own, had been taken captive, he returned to turn himself in on the condition that the Bani Sulaim treat him in the same manner as the captive women and children. Khalid's troops agreed on the terms of surrender so he surrendered, believing he was protected by a divine covenant. Once he became a captive, however, the Bani Sulaim delivered him to Khalid against their promise. Upon learning he was doomed, the young man asked as a final favor to visit the captive women. Once this request was granted, he dropped to the ground near a woman named Hubaish and uttered the following:

> Oh! Hubaish,
> I am Innocent and will read for you my last poetry:
> Come close! And bestow my reward before the separation would arrive, and they take
> away the suffered lover on the order of the commander;
> Does not love deserve to be rewarded?
> For it has walked a long way so many nights till morning,
> and so many hot days all along;
> Is it not true that I was in search of you?
> In the hope to find you in Halya or Khawaniq.[40]
> I have not disclosed any secrets I was entrusted with,
> And after you, nothing ever has made me to stare;
> Whatever war and calamity that may befall on the tribe,
> Will not but strengthen love once again.

According to al-Waqidi, it was reported by his executioners that, "on that day once I beheaded that young man, a woman approached his head and kissed him so long that she fell dead afterwards and laid next to her lover."[41]

By recanting such tragic details, al-Waqidi wants his reader to note the moral paradox of the case. Such a paradox points out that Islam's primary goal as professed by the Prophet was to advance human morality, whereas the tragedy that is perpetrated by Khalid destroyed the most valued product of humanity, which is love.

Nonetheless, the rebuke of Khalid by the Prophet and others did little to change the cruel manner in which Khalid treated his prisoners of war. In one case when Khalid

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[40] Names of an Arabian desert in Tahama and a city in Fahm area.

[41] Al-Waqidi, *Al-Maghazi*, vol.3, 672.

was dispatched to suppress the apostates (known as *ridda* campaigns), he and his troops were hosted by Mālik Ibn Nuwayra, who was then killed in an ambush by Khalid, under a false accusation, but in reality for his beautiful wife who was forced to have sex with Khalid on the same night of her husband's murder, in clear contravention with the spirit and letters of Islamic law.[42] Ibn A'tham al-Kūfi reports that Khālid used to execute the prisoners of his Syrian campaigns. In one case, he executed eight hundred Christian Romans headed by the patriarch Qilqā, one by one after they all refused to convert.[43] In another confrontation, when the Christian patriarch Augusta refused to convert to Islam, he and a hundred sixty of his soldiers were executed.[44]

Prophetic Consultations with 'Umar and Abū Bakr: Different Personalities, Different Rulings

The battle of the Greater Badr is known as the first serious battle in Islam, and thus a landmark with ramifications for the laws of war. Al-Wāqidī reports on how the Prophet decided the fate of prisoners from this battle.

As soon as the battle subsided, the captives decided, out of fear of immediate execution, to call for the mediatory assistance of the two prominent companions of the Prophet, Abū Bakr (d. 634 CE) and 'Umar Ibn al-Khaṭṭāb (d. 644 CE). Abū- Bakr was requested because he was a close relative to many of the Meccan captives and his lenient attitude; the choice of 'Umar was likely due to fear of his usually severe attitude.

Abū Bakr responded that he would do his best but could not promise anything. 'Umar responded that he would do no harm to their cause. Abū Bakr then talked to the

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[42] Ṭabāṭabā'ī points that Abu Bakr refrained to punish Khalid as requested by 'Umar Ibn al-Khaṭṭāb by saying: "I can not put one of God's swords back into its sheath." Ṭabāṭabā'ī stresses that such insensitivities and legal favoritism gradually became institutional and provided a wholesale immunity for all the twelve thousand companions of the Prophet who outlived him for about a century. In his view, it was such a wholesale approval of many incoherent behaviors that was ultimately responsible for the predicament of the spiritual Islam. See Mohammad Ḥusayn, Ṭabāṭabā'ī, *Shī 'ah: Les Entretien et les Correspondances de Professeur Henry Corbin avec 'Allāmah Ṭabāṭabā'ī (Persian)*, 4th ed. (Tehran: Mu'assese Pazhuheshi Hekmat wa Falsafeh Iran, 1383/1984 CE) 216-18.

[43] Ibn A'tham, *Al-Futūḥ*, 74.

[44] Ibn A'tham, *Al-Futūḥ*, 75.

Prophet and encouraged him to either release the prisoners unconditionally - most were close relatives of the Prophet and his companions - or to release them on ransom, as that would help the Muslims financially. The Prophet responded with silence and asked for 'Umar's opinion.[45] 'Umar responded harshly: "Oh God's Apostle! These (prisoners) are God's enemy, they denied your call, and launched a war against you; as they are heads of infidelity and leaders of ways that are astray, cut their necks thereby God may bestow comfort over Islam, and belittle the polytheists."[46] The Prophet again fell silent. Abū Bakr next stated: "Oh God's Apostle! May my parents be sacrificed for you; these are your relatives, release them unilaterally or against ransom for you must not be the first person to make them helpless; it is better if God should decide to lead them to the right path than their demise at your hand."[47] Abū Bakr was concerned about the future ramifications of retaliatory action. Once again 'Umar took the floor, and demanded the immediate execution of the prisoners. He reminded the Prophet that it was these same polytheists who forced him into exile. 'Umar said, "Just imagine if they had won the battle, they would have never given us a second chance."[48] The Prophet remained silent as the speakers repeated their arguments for a third time. At this point, he left the crowd. The controversy caused a public confrontation between the two sides on this question. When the Prophet returned after an hour of contemplation, he stopped all arguments and delivered the following speech:

> The two friends I consulted ('Umar and Abū Bakr) represent two distinct attitudes that have an old precedence: Abū Bakr resembles the Angel Michael who brings the contentness and forgiveness of God to earth, and the Prophet Abraham who was softer than honey to his people . . . his people (Abraham's) threw him to fire, nevertheless he prayed for them and uttered 'Fie on you and those you worship besides God! Will you not understand?'[49] He (Abraham) used to pray 'So he who follows me is truly of me; but as for him who disobeys me, surely you are forgiving and kind'.[50]

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[45] Al-Wāqidī, *Al-Maghāzī*, vol.1, 80.

[46] Al-Wāqidī, *Al-Maghāzī*, vol.1, 80.

[47] Al-Wāqidī, *Al-Maghāzī*, vol.1, 80.

[48] Al-Wāqidī, *Al-Maghāzī*, vol.1, 81.

[49] Orooj, *Al-Qur'ān: A Contemporary Translation*, Q.21:67.

[50] Orooj, *Al-Qur'ān: A Contemporary Translation*, Q.14:36.

He (Abū Bakr) also resembles Jesus, who used to say: 'If You punish them, indeed they are Your creatures; if You pardon them, indeed You are mighty and wise.[51] As for 'Umar, he resembles, among the angels, Gabriel who appears on Earth to bring God's anger and wrath against His enemies; and among prophets to Noah who looks to be tougher than stone to his people where he says 'O Lord, do not leave a single habitation of unbelievers on the earth,'[52] and cursed them so deep that caused the drowning of the entire population on the earth. . . he ('Umar) also resembles Moses who used to say 'O Lord, destroy their possession and harden their hearts that they may not believe until they face the painful punishment.'[53]

In the end, the Prophet decreed that the captives either be freed by ransom or executed. The approximately seventy prisoners included his son-in law. According to al-Wāqidī The Prophet concluded that the Muslim troops were, indeed, in serious financial need.[54]

Strict Precedence or a Tactical Ruling?

The Prophet's ruling in theory was the middle ground between the positions proposed by Abū Bakr and 'Umar. However, although he espoused this intermediate position, he was far more moderate in practice. Quite a few were released without ransom when no Meccan relative approached Medina to buy their freedom; the majority was released upon payment of ransoms proportional to their wealth; and a few converted and stayed in Medina.[55] Only a couple of captives were executed for attempting to escape and other violations of their captivity and not on the ground that they were prisoners of war. During captivity, moreover, the prisoners received better food than what the Muslim warriors could afford for themselves.[56] It is clear that the Prophet's first ruling was a tactical move but it was his action that layed a legal and moral precedent in treating the prisoners of war. This episode can be contrasted with the previous assault of Khālid Ibn Walīd on the Banī Jadhīma.

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[51] Orooj, *Al-Qur'ān: A Contemporary Translation*, Q.5:118.

[52] Orooj, *Al-Qur'ān: A Contemporary Translation*, Q.71:26.

[53] Orooj, *Al-Qur'ān: A Contemporary Translation*, Q.10:88.

[54] Al-Wāqidī, *Al-Maghāzī*, vol. 1, 81.

[55] Al-Wāqidī, *Al-Maghāzī*, vol.1, 82-7.

[56] Al-Wāqidī, *Al-Maghāzī*, vol.1, 88.

Honey and Stone at War

The accounts of the Prophet at Badr reveal his consciousness of the militant and lenient tendencies among his companions, and his attempt to strike a balance between them. To what extent was he successful? This is a hard question to answer within the socio-economic milieu of seventh century Arabia. 'Umar seemed always to hold an extreme position when it came to the use of force. Similarly, another companion of the Prophet, Sa'd Ibn Mu'ādh, supported 'Umar's radical ruling on the fate of the Badr prisoners. He later decided the arbitration between the Muslims and the Jews of Banī Quraiza based on Jewish Books, which led to the execution of close to six hundred Jewish prisoners.[57]

When the Muslims returned from the costly battle of Uhud, 'Umar asked the Prophet to behead whatever critic who raised his voice.[58] The Prophet rejected the request saying, "as for the Jews, they are under our protection (*dhimmī*) and as for the hypocrites, I am forbidden to transgress whoever has verbally professed the truth of Islam and accepted my apostleship."[59]

According to an account by Ibn Ishāq, 'Umar, before his conversion to Islam, sought to kill his brother-in-law Sa 'īd Ibn Zeid Ibn 'Amru Ibn Nufaiyl and actually injured his own sister Fātima Bint Khattāb for their earlier conversions to Islam.[60]

In one instance, just before the conclusion of the al-Hudaybiyya treaty, 'Umar criticized fellow Muslim Abū Jandal because he had spared the life of his polytheist

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[57] For the full account of the story, see Al-Wāqidī, *Al-Maghāzī*, vol.1, 387. Also see Mohaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 408. Mohaqqiq-Dāmād points that the blame for the mass-execution falls upon the Jewish community for they "refused to have the person of the Prophet as the arbitrator, whose ruling regarding their Jewish neighbors, the tribes of Banī al-Nadir and Banī Quynaqā', affected their property but not their lives."

[58] Al-Wāqidī, *Al-Maghāzī*, vol.1, 229.

[59] Al-Wāqidī, *Al-Maghāzī*, vol. 1, 229. See also the reports on the Muryasa' battle (311); the Ta'if battle (711); and the Ja'arāneh (721); Firestone's reading of the *Sīra* literature and his conclusion that 'Umar "is invariably depicted as a powerful and confident man who easily wielded his sword both before and after becoming Muslim," in Firestone, *Jihād*, 108.

[60] Hamedānī, *Sīrat-e Rasūlullāh*, 159.

father in battle.[61] Can there be any surprise that, when he became caliph, 'Umar removed the phrase 'seek the best of all deeds' (حى على خير العمل *hayya 'alā khayri al-'amal!*) from the call to prayer (الاذان)? There are many reports about his arguments with the Prophet on this matter, as 'Umar could not accept that any deed could possibly be more valued than armed *jihād*.[62] 'Umar changed the phrase to 'the prayer is better than sleeping' (الصلواه خيرمن النوم *as-salātu khairun min an-nawm*), thereby diminishing its status from the best of deeds to a level less worthy than jihād and only better than sleeping.[63] Perhaps the same militant spirit explains why the bulk of Islamic territorial conquests took place during 'Umar's caliphate.

It is important to note that the entire three-volume chronicles of *al-Maghāzī* on the Prophetic wars do not convey a single case of similar militant behavior on the part of Abū Bakr. There is one report on how another companion, 'Uthmān Ibn 'Affān,[64] was forgiven by the Prophet for having fled battle at Uhud.[65]

Given the wide range of ethical attitudes and personal habits among all of the first four Caliphs after the death of the Prophet, a pertinent question would be how theis four most important symbols and purportedly exemplars of Islam could possibly establish any consistant standard of ethical order in wars? Fred Donner asserts "The attitudes of the first generations of Muslim toward questions of war and peace were primarily shaped by a) the cultural norms of the pre-Islamic societies to which they belonged, b) the attitudes toward war contained, implicitly or explicitly, in the Qur'ān,

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[61] Al-Wāqidī, *Al-Maghāzī*, 463.

[62] See Mohammad Husayn, Tabātabā'ī, *Shī 'ah: Les Entretien et les Correspondances de Professeur Henry Corbin avec 'Allāmah Tabātabā'ī (Persian)*, 4th ed. (Tehran: Mu'assese Pazhuheshi Hekmat wa Falsafeh Iran, 1383/1984 CE) 216.

[63] Ramzī Owhadī and Mohammad Reda, *One Thousand and One Stories about Imām 'Alī*, (Tehran: Said Novin Publications, 1998) 381-82. Their source is Salim b. Qays.

[64] 'Uthmān ibn 'Affān was the third Muslim Caliph, and died in the year 656 CE.

[65] Owhadī and Reda, *One Thousand and One*, 201.

and c) the dramatic events of their own lifetimes."[66]To this, one should add the character typology of the specific chaliphs.

Conclusions

The moral shift of the war ethics, caused by the transition of the Arab society from the *jāhilī* into the Islamic culture, was immense and provided a full contrast. But soon after the demise of the Prophet, and the acquisition of vast fortunes from the subsequent conquests, the lenient treatment of prisoners of war became less common as their economic value declined. Captives became increasingly a burden for the Muslim warriors. Consequently, the arbitrary treatment of prisoners of war was codified by the first generation of the Islamic jurists. Some jurists, following the examples of the Prophet and those companions who cared for just war norms, codified rules that are, in parts, still more progressive and humane than the laws of war under various modern international conventions. And some others gave war commanders a free hand to follow the example of al-Walid.

'Umar's policies proved the most influential of the early caliphs. He ruled for more than a decade. Abū Bakr's reign, in contrast, was short lived. 'Uthmān was not personally militant or harsh. As a caliph, nevertheless, he maintained 'Umar's war policies without significant modification. 'Alī was forced to take up campaigns against domestic foes who opposed his succession. Yet, during the Prophetic wars and afterwards, he maintained a just and chivalrous record.

'Umar was the chief advocate of foreign wars. As such, he had sufficient time to institutionalize his war policies and ethics. The four first caliphs of Islam had four very different characters: a pacifist, a militant, a political instrumentalist, and a believer in just war. Among all the four, the most militant had the chance and long enough a reign to establish the post-Prophetic battle norms. The 'stone,' therefore, had ample chance to predominate the 'honey.' In the end, personal dispositions and characters of the specific caliphs and idiosyncrasy heavily mattered for the spirit of the laws and norms of

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[66] Fred M. Donner, "The Sources of Islamic Conception of War," in John Kelesay, and James T. Johnson, eds. *Just War and Jihad,* Greenwood Press, (New York, London: 1991) 33.

war formed under their rule. These norms were still far better than the global conventional practices of the day, but much short of the Prophetic war ethic legacies.

This chapter primarily focused on the influences of characters on the theories and conducts of early Muslim wars. Against such influences, there is an ample need to look into principles as provided by the Qur'ānic Scripture and its exegeses as provided by the next chapter.

CHAPTER TWO

WAR ETHICS IN THE QUR'ĀN

> There has come to you from Allāh a light
> and a clear book by which Allāh guides
> those who pursue His pleasure to ways of
> peace.
>
> The Qur'ān, 5:15, 16

In the examination of war ethics from an Islamic perspective, it is necessary to include an analysis of the scriptural positions on the ethics of conflict. The literature on Islamic war ethics is rich with conventional interpretations of the Qur'ānic war-related verses. But in order to have a broader conception of the Islamic positions, it is essential to study these verses together with other verses that do not seem to be war-related at their face value, but are nevertheless helpful in the field. The analysis will start by critical review of classical and contemporary Qur'ānic exegetical works, and will explore the positions of the Scripture on the goals and limits of war in the light of the vast spectrum of views. This spectrum posits the Ṣūfi-pacifist view on the one extreme and the views of those who favor perpetual war on the other.

Qur'ānic Exegeses: Moralist Versus Legalist Approaches

A brief look at classical Qur'ānic exegeses reveals some contradictions within the moralist and legalist approaches to war.[67]

Within the Qur'ānic text that speaks to the subjects of war and homicide, several verses come under the rubric of *mutashābihāt* (ambiguous verses), which signal their capacity to stand for a broad spectrum of interpretations. To illustrate, the thirty-second verse of the Qur'ān in Chapter Five (sūrat al-Mā'ida) reads as follows:

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[67] Reuven Firestone attributes the presence of non-linear, dual militant-pacifist tendencies within the body of early Muslim literature to an early interpretive clash on the Scripture, *ḥadīth* and *sīra* (biographical *ḥadīth*). He maintains that biographical *ḥadīth* (in his view, written primarily by militant commentators) was subjected to criticism only after a century which "was too late to be effective." See Reuven Firestone, *Jihād: The Origin of Holy War in Islam* (New York, Oxford: Oxford University Press, 1999) 90, 105, 107.

> Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul slain, or for corruption [done] in the land, it is as if he had slain mankind entirely. And whoever saves one, it is as if he had saved mankind entirely. And Our Messenger had certainly come to them with clear proof. Then indeed many of them, [even] after that, throughout the land, were transgressors.[68]

These lines present a broad prohibition against manslaughter; they promote respect for life through rich metaphors. Yet, because of these metaphors, they create the possibility of different interpretations by different scholars in different eras.

Over the course of four centuries (from 10th to 14th century CE) classical exegetes, have treated this verse in diverse ways. For example, al-Ṭabari (d. 922 CE), by reference to a selection of ḥadīth, decides: first, that the decree is universal (binding not only for the Jewish community), secondly that the rule has a rational justification (a moral conclusion from the first murder of one of Adam's sons by another); and third, that the verse means that punishment for murder must be extreme and can not possibly be increased by further acts of murder.[69]

On the other hand, the Shī'i Abū al-Futūḥ al-Rāzi (d. 1131 CE) provides a more pacifist interpretation of the verse emphasizing that penal laws function primarily as a deterrent, and that the literal implementation of penal codes is not the goal of the lawmaker; they serve as a moral reminder to the Muslim society.[70] Al-Zamakhshari's (d.1144 CE) interpretation is similar. By restricting the scope of the corruption on Earth mentioned in the verse, he limits the exception to the rule and maintains the gravity of the offense.[71]

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[68] *The Qur'ān,* trans. and ed. Ṣaḥeeḥ International (Riyadh: Abulqasim Publishing House, 1997) 141-2.

[69] Abū Ja 'far Muḥammad al-Ṭabari, *Jāmi ' al-Bayān 'an Ta'wīl āyāt al-Qur'ān* (Cairo: Dār al-Mu'ārif, n.d.) 233.

[70] Abū al-Futūḥ al-Rāzi, *Rawḥ al-Jinān wa Rūḥ al-Janān,* vol.2 (Qum: Mar 'ashi Library Publications, 1404 AH) 139.

[71] Abū al-Qāsim Maḥmūd, al-Zamakhshari, *Al-Kashshāf 'an Haqā'iqi Ghawāmiḍ al-Tanzīl* (Beirut: Dār al-Kutub al-'Arabi, n.d.) 627.

The subsequent scholars al-Ṭabarsī (d.1154 CE),[72] Fakhr al-Dīn al-Rāzī (d. 1210 CE),[73] and al-Bayḍāwī (d. 1316 CE)[74] took a legalistic approach more than their predecessors. They insisted on implementing all details of penal law.

The God of the moralists' world is much more flexible than the one of the legalists. Al-Ṭabarsī, Fakhr al-Dīn al-Rāzī and al-Bayḍāwī did not hesitate expanding the meaning of 'corruption on Earth' in a manner that could encourage the legal execution of everyday miscreants.[75] Killing another human being was evil to them not because of the harm it did to human society, but because it made the ultimate lawmaker wrathful. On the whole, al-Ṭabarī and Abu'l Futūḥ seem to be of more flexible minds than the exegetes who followed them.

The weight and value of human life in the views of these exegetes have direct implications on their views on war and peace. Moralistic approach was less likely to promote war than a legalistic one.

The Ṣūfī Exegesis: The Prime War is Against the Self

Many early Ṣūfī commentators adopted esoteric interpretations of the Qur'ānic verses treating. Among the most widely read of these early commentaries is *Kashf al-Asrār wa-'Uddat al-Abrār* of Abū Ismail 'Abd Allāh al-Anṣārī Heravī (d. 481/1089) with additional commentaries by Rashīd al-Dīn Abū al-Faḍl Aḥmad Maybūdī (written *ca.* 520/1126). Al-Anṣārī emphasizes the esoteric aspects of the war-related verses. The real challenge and test towards one's faith for him comes from within. In one parable, al-Anṣārī relates how a senior Ṣūfī was once injured by a sharp tree-branch while he was

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[72] Faḍl Ibn Ḥasan al-Ṭabarsī, *Majma ' al-Bayān li 'Ulūm al-Qur'ān,* vol. 2 (Qum: Mar 'ashī Library Publications, 1403 AH) 187.

[73] Fakhr al-Dīn, al-Rāzī. *Mafātīḥ al-Ghaib,* vol. 11 (Beirut: Dār al-Ihyā' al-Turāth al-Arabī, n.d.) 212.

[74] Nāṣir al-Dīn Abū Sa 'īd, al-Bayḍāwī, *Anwār al-Tanzīl wa Asrār al-Ta'wīl* (Gesamtherstellung: Proff & Company, n.d.) 256-257.

[75] Whereas Abu'l Futūḥ interprets 'the corruption on earth' as 'fighting with God,' al-Rāzī and al-Ṭabarsī suggest three categories of apostasy, highway robbery, and fighting with God.

climbing a palm tree. "Looking at his own torn stomach, he praised God for the incidental success to punish the 'self.'"[76] Al-Anṣārī adds:

> The reasons why the Prophet stressed that the greater Jihād (jihād al-akbar) must be against the carnal soul (nafs) is that wars with the infidels are occasional but the esoteric battle is continuous; there are possible ways to avoid the visible weapons of the infidels, but little chance to escape the invisible weapons of temptations of the soul; and that unlike the case of martyrdom in war with the infidels, there are no rewards if one is defeated by his inner enemy.[77]

For this reason, al-Anṣārī distances himself from warriors martyred in temporal combat when he comments on verses Q. 2:190 and 191.[78] "Martyrs in the hand of human beings (khalq) is one thing and martyrs in the hand of God (ḥaqq) is another," he concludes.[79] This view is adopted by many later exegetes such as 'Abd al-Razzāq al-Qāshānī (d. 730/1329), author of Ta'wilāt al-Qur'ān.[80] al-Qāshānī does not encourage external jihād but emphasizes the more important esoteric battlefields.

Perhaps the most concise Ṣūfī motto on war and peace is al-Anṣārī's following statement:

> May God bless all those chivalry-mannered (javānmardān) people who walked over all their wishes, who made peace with the people and who stood firm in war with their own carnal soul.[81]

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[76] 'Abd Allāh. al-Anṣārī, Tafsīr-e Adabī va Erfānī Qur'ān-e Majīd, with Commentary by Imam Aḥmad Maybūdī, in Persian, Ḥabīb Allāh Amūzegār ed. (Tehran: Entesharat-e Eqbal, 6th ed. 1990), 168.

[77] 'Abd Allāh. al-Anṣārī, Tafsīr-e Adabī va Erfānī Qur'ān-e Majīd, 168.

[78] Q.2:191: "Fight in the way of Allāh those who fight you but do not transgress. Indeed, Allāh does not like transgressors." Q.2:192: "And kill them wherever you overtake them and expel them from wherever they have expelled you, and fitnah is worse than killing. And do not fight them at al-Masjid al-Ḥarām until they fight you there. But if they fight you, then kill them. Such is the recompense of the disbelievers." Translation is from: The Qur'ān, Ṣaḥeeḥ International trans. and ed. (Riyadh: Abulqasim Pulishing House, 1997), 36, 37.

[79] 'Abd Allāh. al-Anṣārī, 78.

[80] 'Abd al-Razzāq. al-Qāshānī, Ta'wilāt al-Qur'ān, (Beirut: Dār al-Baydah al-'Arabiyya), 1968.

[81] 'Abd Allāh. al-Anṣārī, 168.

Winning in peace, however, is as important for al-Anṣārī as winning in war. Deception in war (*al-khud 'a*) is supported by ḥadīth literatures in contradistinction to the breach of any agreement (*al-ghadr*) contracted with the enemy. Al-Anṣārī also points to the permissibility of lying for peacemaking as one other exception to the general and very strict prohibition of deception in the Islamic ethics.[82]

Breach of Contract: the Prime Cause for Interfaith and Intra-faith Conflicts

Despite the frequent assertions of various Muslim jurists' that there exists a permanent war between the abode of Islam (*dār al-Islam*) and the abode of infidelity (*dār al-kufr*), there are no specific Qur'ānic contentions to this effect. In fact, the Qur'ānic references to the cause or causes for eternal intra-religious conflicts, such as verses Q. 2:100[83], 5:13[84], 14[85] and 64[86] do not concern the engagements of Muslims in such conflicts. Rather, these verses assert that it was because of the "breach of the divine covenant" among the "people of book" (signifying the Jewish and Christian communities) that they were condemned to God's curse (*la'na*), animosity (*al-'adāwa*), and hatred (*al-baghdā'*) until the Day of Judgment. These verses, when considered in conjuncture with

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[82]'Abd Allāh. al-Anṣārī, 149. It is important to note that the strict legal and ethical ban on lying and deceit in the Islamic tradition is reflected, within various Islamic traditions, in the proverbial phrase of: "the liar is God's enemy." There are however two exceptions: when lying brings peace and when telling the truth causes conflict.

[83] Q.2:100: "Is it not [true] that every time they took a covenant a party of them threw it away? But, [in fact], most of them do not believe."

[84] Q.5:12, 13: "And Allāh had already taken a covenant from the Children of Israel..." "So for their breaking of the covenant We cursed them and made their hearts hard..."

[85] Q.5: 14: "And from those who say, "We are Christians" We took their covenant; but they forgot a portion of that of which they were reminded. So We caused among them animosity and hatred until the Day of Resurrection."

[86] Q.5: 64: "And the Jews say, 'The hand of Allāh is chained.' Chained are their hands, and cursed are they for what they say. Rather, both his hands are extended; He spends however He wills. And that which has been revealed to you from your Lord will surely increase many of them in transgression and disbelief. And We have cast among them animosity and hatred until the Day of Resurrection. Every time they kindled the fire of war, Allāh extinguished it..."

the verses Q.5:66,[87] Q.5:77,[88] and Q.5:80,[89] clearly point to two essential notions about religious conflicts: first, that the 'people of the book' are condemned to eternal conflict among themselves--which is an entirely separate issue from the conflict between them and the Muslim community whatever the cause. Second, that these verses indicates that the motivations of intra-Christian and intra-Jewish conflicts and animosities do not stem from their ideological stance towards Muslims, but from their extremism and transgression within their own religious framework, as well as their breach of covenants.

Verses, Q. 9: 8, 10, 11,[90] 12 and 13 point to the breach of contract as a cause of conflicts. Specifically, verse 8 criticizes the polytheists for their hollow lip service on treaties. This is yet another emphasis on the importance of treaties that must be unconditionally held, according to the Qur'ān, without respect to the belief system of the contracting parties. Verse 10 reads: 'They do not observe toward a believer any pact of kinship or covenant of protection; and it is they who are transgressors.' "And if they break their oaths after their treaty and defame your religion, then fight the leaders of disbelief, for indeed, there are no oaths to them..." This verse once again emphasizes the importance of treaties, and the severity of breaching them in which case there is a cause for fighting; however, fighting is sanctioned only against military leaders who have direct responsibility for the breach. The following verse 13, qualifies, in most unequivocal terms, the same cause for Muslims-Polytheists conflict: "would you not fight a people who broke their oaths and determined to expel the Messenger, and they

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[87] Q.5:66: "And if only they (Jews and Christians) had upheld the Torah, the Gospel, and what has been revealed to them from their Lord, they would have consumed (provision) from above them and from beneath their feet. Among them is a moderate community, but many of them-evil is that which they do."

[88] Q.5:77: "Say, 'O People of the Scripture, do not exceed limits in your religion beyond the truth and do not follow the inclinations of a people who had gone astray before and misled many and have strayed from the soundness of the way."

[89] Q.5:80: "You see many of them becoming allies of those who disbelieved (polytheists). How wretched is that which they have put forth for themselves in that Allāh has become angry with them, and in the punishment they will abide eternally."

[90] Q.9:11: "And if they [the polytheists] break their oaths after their treaty and defame your religion, then fight the leaders of disbelief, for indeed, there are no oath [sacred] to them; [fight them that] they might cease."

had began (the attack upon) you the first time?" This verse leaves no doubt that the polytheists unilaterally breached their oath and peace treaty.

The preceding verses regarding the root causes of anti-polytheist Muslim wars make it clear that this war, however instigated by the scripture, is completely of retaliatory and corrective nature. It constitutes a reaction to the campaign primarily initiated against the Meccan Muslim community by the polytheists, with the initial cause being the unilateral breach of the treaty they had with Muslims. It is important to note that according to Tabātabā'ī, although Muslims were ordered to retaliate against the polytheists, they were, nevertheless ordered to always announce their adverse campaigns, in contrast to the un-announced and unilateral breach of the treaties by polytheists.[91]

According to the Qur'ān, it is such unprovoked misdeeds that condemns the perpetrators to a perpetual penal law as stipulated in Q.4:79 and frequently mentioned elsewhere in the Qur'ān: "What comes to you of good is from Allāh, but what comes to you of evil, [O man], is from yourself..." The tacit meaning is that wars and conflicts are the direct results of human deeds, rather than God's arbitrary sanctions. In other words, inter-religious and intra-sectarian conflicts and wars, in the Qur'ānic context, are not the unavoidable and intrinsic results of the plurality of religions.

In fact several verses complement constructive competition among various faiths.[92] A nuanced reading of the Qur'ānic commentary on religious conflicts confirms that what produces such conflicts are sheer acts of transgression. This is apparent in the ontological roots of war as described by the Scripture in reference to the expulsion of Adam and Eve from paradise. Pursuant to first couple's defiance of God's order regarding the ban on eating the fruits of the forbidden tree, the entire human genre was

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[91] Mohammad Husayn Tabātabā'ī, *Tafsīr al-Mīzān*, vol.9, trans. Mohammad Baqer Musavi Hamadani (Tehran: Markaze Nashr-e Raja, 1985) 72.

[92] Q.5:48: "...To each of you We prescribed a law and a method. Had Allāh willed, He would have made you one nation [united in religion], but [He intended] to test you in what He has given you; so race to [all that is] good. To Allāh is your return all together, and He will [then] inform you concerning that over which you used to differ."

condemned to enmity except those who follow scriptural guidance as Q.20:123[93] points. Here again, war as a curse and a vice is rooted in the breach of a covenant (the very first covenant between God and human being).

The Ethics of Debating does not Support War for Disbelief

A popular conception of Islamic war ethics claims that unbelief in tenets of the Muslim faith was reason enough for going to war with others. However, the Qur'ānic protocol for inter-religious debate and argumentation, as reflected in the following verses, espouse a firm refutation of war as a means of dealing with disbelief. Covering a long period of the early Islamic community, the Qur'ānic verses 5:9, 2, 3; 2:109;[94] 3: 134;[95] 4:148;[96] 5:13;[97] 6:106;[98] 15:94;[99] 16:125;[100] 29:46;[101] 42:15[102] and 50:39,[103] place an

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[93] Q.20:123: "Allah said, 'Descend from it [i.e., Paradise] - all [your descendants] being enemies to one another. And if there should come to you guidance from Me- then whoever follows My guidance will neither go astray [in the world] nor suffer [in the Hearafter].

[94] Q.2:109: "Many of the people of the Scripture wish they could turn you back to disbelief after you have believed, out of envy from themselves [even] after the truth has become clear to them. So pardon and overlook until Allāh delivers His commands. Indeed, Allāh is over all things competent."

[95] Q.3:133, 134: "And hasten to forgiveness from your Lord and a garden as wide as the Heavens and earth, prepared for the righteous. Who spend during ease and hardship and who restrain anger and who pardon the people- And Allāh loves the doer of good."

[96] Q.4:148: "Allāh does not like the public mention of evil except by one who has been wronged. And ever is Allāh Hearing and Knowing."

[97] Q.5:13: "So for their breaking of the covenant We cursed them and made their hearts hard. They distort words from their [proper] places and have forgotten a potion of that which they were reminded. And you will still observe deceit among them, except a few of them. But pardon them and overlook [their misdeeds]. Indeed, Allāh loves the doers of good."

[98] Q. 6:106: "Follow, [O Muḥammad], what has been revealed to you from your Lord- there is no deity except Him- and turn away from those who associate others with Allāh."

[99] Q.15:94: "Then declare what you are commanded and turn away from the polytheists."

[100] Q.16:125: "Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best. Indeed, your Lord is most knowing of who has strayed from His way, and He is most knowing of who is [rightly] guided."

[101] Q.29:46: "And do not argue with the People of the Scripture except in a way that is best, except for those who commit injustice among them, and say, 'We believe in that which has been revealed to us and revealed to you. And our God and your God is one; and we are Muslims [in submission] to Him.'"

unequivocal emphasis on using soft and the best language (*ahsan*), patience and self-control (*hilm*), forgiveness (*'afw*), flexibility (*safh*) and similar tolerant attitudes towards non-Muslim communities.

Prevalent misconceptions of the scriptural view towards non-Muslims seem to stem from the fact that such a lenient approach to disbelievers does not match several militant verses that encourage a rather harsh treatment of non-Muslims, such as the verses Q.9:73 and Q.66:9.[104] One response to this question is that the non-lenient verses echo the well established and increasingly powerful society of Medina as opposed to the soft political positions taken by the Meccan Muslims who were in sheer minority.

This view overlooks at least two significant factors. First, that there was not and there could not have been any contract between the Meccan pagans and the early Muslim converts, given the latter's politically weak position before their emigration to Medina. There was no contract; no contract was breached, therefore no war was waged.

Second, that should the harsh treatment of disbelievers have had any relations with their mere disbelief, treatment of the non-Muslim people of the book (*ahli al-kitāb*) must have followed a reverse order as compared with what virtually occurred. In principle the Jewish faith was closer to the Muslim Unitarianism (*towḥīd*) than the Christian principle of trinity or the polytheism of the Meccans. In reality however, following the Muslims' control of the city, the Meccan polytheists and Arab Christians suffered much less than Jews of this peninsula.[105] The evidence therefore shows that

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[102]Q.42:15: "So to that [religion of Allāh] invite, [O Muḥammad], and remain on a right course as you are commanded and do not follow their inclinations but say, 'I have believed in what Allāh has revealed of scripture, and I have been commanded to do justice among you. Allāh is our Lord and your Lord. For us are our deeds, and for you your deeds. There is no argument between us and you. Allāh will bring us together, and to Him is the destination."

[103]Q.50:39: "So be patient, [O Muḥammad], over what they say and exalt [Allāh] with praise of your Lord before the rising of the sun and before its setting."

[104] Q.9:73: "O Prophet, fight against the disbelievers and the hypocrites and be harsh to them. And their refuge is Hell, and wretched is the destination."

[105] Compare the fate of the Jewish Banī Qurayẓa and the Christians led by Ukaider Ibn 'Abdulmalik, which is referenced in Chapter One of this work.

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early Muslim-Jewish clashes simply resulted from the unilateral breach of mutual contracts by the latter.

Worst than Killing: *al-fitna*

There are two specific verses wherein the term *fitna* (sedition) has been subject to controversy in the Qur'ānic classical exegeses: Q.2:191 and Q.2:193:

> And kill them wherever you overtake them and expel them from wherever they have expelled you, and *fitna* (sedition) is worse than killing...
>
> Fight them until there is no *fitna* and religion [i.e., worship] is [acknowledged to be] for Allāh. But if they cease, then there is to be no aggression [assault or animosity] except against the oppressors.

These verses emphasize two essential notions about the term *fitna*: that it is more detrimental than killing, and that war should continue until *fitna* is completely uprooted. Classical exegetes have treated this term in a way that it has come to represent so many various meanings, such as dissention, civil strife, persecution, oppression, sedition, harassment, trial, torment, disbelief, and polytheism.[106] With the exception of disbelief (*kufr*) and polytheism (*shirk*), most of these connotations of *fitna* have something to do with conspiratorial acts that often lead to civil unrest and insecurity. As such, the Qur'ān seems to take *fitna* as a more serious threat to the safety and security of the newly born Islamic state than the act of killing (in war).

The controversy about *fitna* originated when the classical exegetes added to its previously wide interpretation, the two notions of disbelief and polytheism that substantially depart from the rest of the word's original meanings. These latter meanings link the word *fitna* directly to the situation of differing belief systems, rather than the hostile anti-Muslim acts that possibly resulted from these systems.[107] In fact,

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[106] For the various meanings of *fitna*, see Abī al-Qāsim al-Ḥusayn Ibn Muḥammad (known as al-Raghib Isfāhānī), *Al-Mufradāt fī Gharīb al-Qur'ān* (Tehran: al-Maktab al-Murtazaviyya, n.d.) 371-73.

[107] See Abū al-Futūḥ al-Rāzī, *Rawḥ al-Jinān wa Rūḥ al-Janān*, vol.2, 92-3. See also Faḍl Ibn Ḥasan al-Ṭabarsī, *Majma ' al-Bayān fī Tafsīr al-Qur'ān*, vols.1-2 (Beirut: Dar al-Ma 'rifa, 1986) 510-512. See also Mohammad Ḥusayn Ṭabāṭabā'ī, *Tafsīr al-Mīzān*, vol.2, trans. Mohammad Taqi Meṣbāḥ Yazdi (Tehran: Markaz-e Nashr-e Raja, 1985) 80-3.

the interpretive expansion overlooks the latter part of Q.2:193, which advocates the inception of a ceasefire with the perpetrators of *fitna* once they end their conspiracies. The verse asserts that 'there is no hostility (*'udwān*) except against wrong doers (or oppressors for *al-ẓalimīn*). The phrase '*fitna* is worse than killing' is proof that the Qur'ān intends not only to justify war against those who committed *fitna*, but more importantly it establishes the principle that any war demands valid justification.[108]

Another point of exegetical confusion on *fitna* is the interpretation of the following phrase: "and religion [worship] is [acknowledged to be] for Allāh..." There is a great difference between what is God's futuristic prediction and His direct order for immediate implementation. Generally, classical exegetes have been inclined towards the latter interpretation; importantly, this tendency reveals their confrontational purpose and ignores the last part of the verse, which reads, "But if they cease, then there is to be no aggression [assault or animosity] except against the oppressors." If war should continue till the annihilation or conversion of all the polytheists -the interpretation that most exegetes like to adopt- then this latter part of the verse becomes completely optional and redundant.

Given the rather suppressive attitude of the Umayyad regimes against domestic critique, it is entirely possible that the exegetical interpretive twist, being systematically adopted by many later commentators, was construed to protect anti-Umayyad dissent; for if *fitna* was disbelief, Muslim dissent could not be a subject of the above verses. Nevertheless, the net result was that by adding polytheism and disbelief to the meaning of *fitna*, the exegetes allowed for the justification of foreign primary (offensive) wars and the theory of a permanent war between *dār al-Islam* (the abode of peace), and *dār al-kufr* (the abode of disbelief).

Against Inquisition

Among the Qur'ānic verses on the subject of war there is an exegetical controversy regarding the word *al-salām* as it appears in the verse Q.4:94, which reads:

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[108] Such justification, in the context of the philosophical arguments in Chapter Four of this book, would entail respect for an objective ethical system that is presumably present in every person's nature, or else God's decrees would be sufficient enough to establish moral values.

O you who have believed, when you go forth in the cause of Allāh, investigate; and do not say to one who gives you [the word] peace, 'you are not believer,' aspiring for the goods of worldly life; for with Allāh are many acquisitions. You were like that before; then Allāh conferred His favor upon you, so investigate. Indeed Allāh is ever, with what you do, acquainted.

From its position in this stanza, *al-salām* has been interpreted as either to mean 'peace,' or 'greetings,' and the implications for its meaning bear on the treatment of the opposition in conflicts. In his examination of the controversy, Abū al-Futūḥ al-Rāzī asserted that the Medinese exegetes read the word as *al-silm* (peace), instead of *al-salām* (greetings), and therefore the verse calls for Muslim warriors to accept peace offers from those they encounter.[109] Conversely, other exegetes read it as *al-salām*, which as a Muslim greeting symbolizes the Muslim believer. Whatever the interpretation, both classical and modern exegetes assert that this verse provides an unequivocal rejection and condemnation of assuming evil intentions among those whom the Muslims encountered in various situations.

The issue of accepting a gesture of peace from a combatant is a prominent subject in Islamic ethical literature. For example, a number of anecdotal ḥadīth prominent in most exegetical works assert that before this verse was revealed, there were a few examples where prominent Muslim military figures such as Usamat Ibn Zaid, threatened the lives of a few combatants whose formal and verbal peacemaking gestures (or Muslim style greetings) were not accepted on face value.[110] According to the ḥadīth literature, these militant Muslims were severely rebuked by the Prophet when he

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[109] Abū al-Futūḥ al-Rāzī, *Rawḥ al-Jinān wa Rūḥ al-Janān,* vol.3, 474-75. See also Faḍl Ibn Ḥasan al-Ṭabarsī, *Majma 'al-Bayān fī Tafsīr al-Qur'ān,* Vol.3 (Beirut: Dar al-Ma'rifa, 1986), 144.

[110] The story is that a Muslim warrior, Usama Ibn Zaid, despite a shepherd's verbal testimony to the unity of Allāh and the prophecy of Mohammad (uttering the words of *shahāda*), killed him and confiscated his flock to the benefit of the Muslim community. But once the story was revealed and Usama tried to justify his crime by saying that the shepherd's testimony was 'a last moment ploy,' the Prophet rebuked him to the verge of not accepting his repentance. See Mohammad Ḥusayn Ṭabātabā'ī, *Tafsīr al-Mīzān,* Mohammad 'Ali Kerami trans. vol.5 (Tehran: Markaze Nashr-e Raja, 1980) 72. See also a similar tragedy perpetrated by Khālid Ibn al-Walīd as mentioned in Chapter One of this book.

emphasized that, "Since no one can read the mind of others, the mere utterance of *shahāda* (testimony) must grant amnesty to the claimant."[111]

Although some Muslim militants have shown skepticism and even denial at the peace offerings from the opposition, the Qur'ānic ethical stance on the subject commands that any gestures of peace be accepted, no matter how disputable their motivations.

Notions of Deterrence

Among the Qur'ānic verses that deal with conflict, there are a few that appear to be more aggressive not only in sanctioning a general war, but also in permitting the rather harsh treatment of the enemy. Specifically, the verse Q. 33:61 is one of the most pertinent examples of this posture. It refers to the treatment of the 'hypocrites' in the following way: "Accursed wherever they are found [being] seized and massacred completely." However, as Tabātabā'ī contends, this verse is not meant to be a direct order to be implemented by Muslims, it only stands as a severe deterrent.[112]

In another example, Q. 9:123 refers to the disbelievers with a similar hostile tone: "O you who have believed, fight those adjacent to you of the disbelievers and let them find in you harshness. And know that Allāh is with the righteous." In this instance, the Qur'ānic term '*ghilza*' is translated as 'harshness' or 'hardness,' and appears to allow abrasive conduct towards combatants. Conversely, Tabātabā'ī opposes translating the word as 'harshness' in the context of war against disbelievers because, he stresses, "this is against the Qur'ānic war ethics present in many other verses." "Instead," he maintains, "the word means staying firm and unyielding in the way of Allāh."[113] Despite controversy regarding the translation of the word *ghilza*, because the verse

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[111] See also Faḍl Ibn Ḥasan al-Ṭabarsī, *Majma ' al-Bayān fī Tafsīr al-Qur'ān*, vol.3 (Beirut: Dar al-Ma 'rifa, 1986), 145.

[112] Mohammad Ḥusayn Tabātabā'ī, *Tafsīr al-Mīzān*, vol.16, trans. Mohammad Baqer Musavi Hamadani (Tehran: Markaz-e Nashr-e Raja, 1985) 533.

[113] Tabātabā'ī, *Tafsīr al-Mīzān*, vol.16, 642.

directs the believer to 'let them find in you' (i.e. you may appear to them as such, rather than act in aggressive ways), it points to detterent measures.

In another example, the verses Q.9:73 and 66:9 again use the term *ghilza*. "O Prophet, fight against the disbelievers and the hypocrites and be harsh upon them. And their refuge is Hell, and wretched is the destination." In this instance, Ṭabāṭabāʾī states that "perhaps this verse is advocating rather harsh treatment of the disbelievers and the hypocrites as a measure parallel to war."[114] From his commentary on the term and its meaning in these verses, it is clear that Ṭabāṭabāʾī's view on the word *ghilza* in reference to the above Qur'ānic examples is that there must be a distinction between being harsh in war, or showing harsh treatment to the disbelievers as a parallel measure to war. Essentially, he categorically rejects the notion of being harsh in war, for it stands in direct contravention with verses that prohibit transgression against the enemy beyond what justice may entail.[115]

Ṭabāṭabāʾī's view agree with the Q.4:84[116] asserting the need to "restrain the military might of the disbelievers." Further confirmation of the Qur'ānic position of fair treatment towards the opposition is echoed in the verses Q. 4:90,[117] 2:193,[118] 4:84[119] and 9:29.[120] Each of these verses set clear criteria for the implementation of a ceasefire exactly at the point where the actual threat of the anti-Muslim forces is checked.

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[114] Ṭabāṭabāʾī, *Tafsīr al-Mīzān*, vol.16, 532.

[115] Among such verses is Q.2:190: "Fight in the way of Allāh those who fight you but do not transgress. Indeed, Allāh does not like transgressors."

[116] Q.4:84: "So fight [O Muḥammad], in the cause of Allāh; you are not held responsible except for yourself. And encourage the believers [to join you] that perhaps Allāh will restrain the [military] might of those who disbelieve, and Allāh is greater in might and stronger in [exemplary] punishment."

[117] Q.4:90: "…So if they remove themselves from you and do not fight you and offer you peace, then Allāh has not made for you a cause [for fighting] against them."

[118] "Q.2:193: "Fight them until there is no dissention and until religion is for Allāh. But if they cease, then there is to be no aggression except against the oppressors."

[119] Q.4:84: "So fight [O Muḥammad], in the cause of Allāh; you are not held responsible except for yourself. And encourage the believers [to join you] that perhaps Allāh will restrain the [military] might of those who disbelieve, And Allāh is greater in might and stronger in [exemplary] punishment."

[120] Q.9:29: "Fight those who do not believe in Allāh or in the Last Day and who do not consider unlawful what Allāh and His Messenger have made unlawful and who do not adopt the religion of truth

Sources of God's Hostility in the Qur'ān

Significant to an understanding of war ethics in the Qur'ān are the conditions in which the Scripture permits antagonistic behavior towards adversaries. First, the verse Q.2:193 defines the legitimate source of hostility to be oppression.[121] Additionally, Q.60:8 stresses that the difference in belief systems is not a legitimate cause for hostility; implicitly, this verse relays that differences in opinions and faiths do not prohibit friendship.[122] Therefore, according to these verses, justice and injustice, rather than faith, stand unequivocally as the ultimate respective causes for friendship and hostility in the Qur'ān.

Furthermore, the verse Q.60:7 express the possibility for peace between former enemies.[123] Q.60:1 and 60:9 categorically reject alliances between Muslims and the unbelievers who fought the Prophet and his followers and caused their expulsion from Mecca.[124] Q.60:13 prohibits the Muslims to make any alliance with people at whom Allāh has become angry. Q.9:29 clearly define what makes Allāh angry:

> Fight those who do not believe in Allāh or in the Last Day and who do not consider unlawful what Allāh and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture- [fight] until they give the *jizya* (poll tax) willingly while they are humbled.

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from those who were given the Scripture-[fight] until they give the *jizya* willingly while they are humbled."

[121] Q.2:193: "Fight them until there is no *fitna* (among meanings: dissention, civil strife, persecution, oppression, seduction, trial and torment) and religion is [acknowledged to be] for Allāh. But if they cease, then there is to be no aggression [assault or animosity] except against the oppressors."

[122] Q.60:8: "Allāh does not forbid you from those who do not fight you because of religion and do not expel you from your homes-from being righteous toward them and acting justly toward them. Indeed, Allāh loves those who act justly."

[123] Q.60:7: "Perhaps Allāh will put, between you and those to whom you have been enemies among them, affection. And Allāh is competent, and Allāh is Forgiving and Merciful."

[124] Q.60:1: "O you who have believed, do not take My enemies and your enemies as allies, extending to them affection while they have disbelieved in what came to you of the truth, having driven out the Prophet and yourselves only because you believe in Allāh, your Lord...."

Q.2:98 defines the main causes of God's enmity to be one's enmity against God, His angels and His prophets.[125] According to this verse, the initiator of the hostility is not God; rather God is on the reactive side. Q.2:99 clarify that the initiator of such hostilities must be quite conscious of his adversity for he denies clear divine proofs.[126] In essence, the latter two verses emphasize that enmity between God and His subjects begin when a person denies proofs of God's command against his own conscience. In short it is one's revolt against his own intellect and reasoning that is tantamount to initiating hostility against God, and that, results in God's retaliation.

Same Verses, Opposite Interpretations

The Qur'ānic verse Q.2:190 is widely believed to be the first verse that speaks on matters of war. Since early classical times, this verse regarding the cause and duration of war has been subject to major exegetical debate. The verse reads: "Fight in the way of Allāh those who fight you but do not transgress. Indeed, Allāh does not like transgressors." Briefly considered, it is obvious that this verse is unequivocally clear on two important aspects of conflict: the cause of battle and the extent of the war. Using this framework, war causality is a matter of retaliation and deterrence, and the duration of the war is limited to when the threat is checked, contained and the balance of power is achieved. Therefore, any militant measure beyond these points is considered to be a transgression on the part of the Muslim warriors.

Despite the seeming clarity this verse projects, its interpretation has been controversial in the classical exegeses, specifically on what connotes a situation of transgression. Abu'l Futūh al-Rāzī contributes to the literature regarding this controversy. First, he reports that according to the hadīth transmitters Rabī' Ibn Anas and 'Abdul-Rahmān Ibn Zaid, the above verse provided the framework of war only as retaliation, and functioned as the main law for Muslim wars until it was abrogated by

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[125]Q.2:98: "Whoever is an enemy to Allāh and His angels and His messengers and Gabriel and Michael- then indeed, Allāh is an enemy to the disbelievers."

[126]Q.2:99: "And We have certainly revealed to you verses [which are] clear proofs, and no one would deny them except the defiantly disobedient."

the verse Q. 9:36 (...And fight against the polytheists collectively as they fight against you collectively).[127] Other exegetes, as al-Rāzī notes, did not see any conflict between the two above verses, because the first refers to all who initiate war against Muslims (including the polytheists), and the latter calls for an all-out war only against the polytheists who had already initiated unrelenting hostilities towards the Muslims. In this interpretation, the latter, more specific case falls within the general rule that the former verse provides. Here, the key issue is the way various exegetes have interpreted the word 'transgression' (*i'tadā*). Al-Rāzī observes that according to Rabī' Ibn Anas and 'Abdul-Raḥmān Ibn Zaid, *i'tadā'* in the verse's context means the prohibition of a surprise attack for the Muslims. Conversely, other ḥadīth transmitters such as 'Abdullāh 'Abbās and Mujāhid maintain that *i'tadā'* refers to prohibition of battle against children, women, elder men, peace seekers and non-Muslims who have not initiated any war. Furthermore, Ḥasan Baṣrī maintains that transgression refers to the prohibition of general, or non-war-related, immoral acts. Yet according to al-Rāzī, other ḥadīth transmitters have stressed that the word 'transgression' within Q.2:190 means the unjustified cessation of the war against the infidels, rather than the unjustified continuance of war.[128] Notably, this last interpretation is in concordance with a militant ḥadīth narrated by Abu Huraira, who is a famed in Shī'ī literature as prolific ḥadīth forger. "The Apostle said," claims Abū Huraira, "whoever who fails to participate in war (in a general sense of the term), he will die in a branch of hypocrisy."[129] Such diverse interpretation of the term *i'tadā'* is also present in other classical exegeses such as the *Majma' al-Bayān li 'Ulūm al-Qur'ān* of al-Ṭabarsī.[130]

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[127] Abū al-Futūḥ al-Rāzī, *Rawḥ al-Jinān wa Rūḥ al-Janān*, vol.1, 90.

[128] Abū al-Futūḥ al-Rāzī, *Rawḥ al-Jinān wa Rūḥ al-Janān*, vol.2, 90. Toshihiko Izutsu rejects such a translation of the word by coupling the word *i 'tadā'* with one of the most detested Qur'ānic vices namely *ẓulm* sharing together the meaning of 'to pass beyond one's proper limit.' See also Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'ān* (Montreal: McGill University Press, 1966) 172.

[129] Abū al-Futūḥ al-Rāzī, *Rawḥ al-Jinān wa Rūḥ al-Janān*, vol.2, 99, 173.

[130] Faḍl Ibn Ḥasan al-Ṭabarsī, *Majma ' al-Bayān li 'Ulūm al-Qur'ān*, vol. 2 (Beirut: Dar al-Marifa Publications, 1986) 510.

Clearly, the interpretation of a single term in four distinctively different and conflicting ways, at the worst, supports the proposition (as noticed in previous chapters) that some of the classical exegeses were exposed to and affected by political and other secondary motives early on after the lifetime of the Prophet Muḥammad, and at the best, provides a reminder that the Scripture is open for reinterpretation.

The above conclusion is supported also by striking opposite interpretations on Q.2:195 which reads: "And spend in the way of Allāh and do not throw [yourselves] with your [own] hands into destruction. And do good; indeed, Allāh loves the doers of good." According to Ṭabāṭabā'ī there are two distinct interpretation for the verse. The first reads: "do not nullify or waste your strength by not spending money in preparation for war." The second reads: "extravagance in expenditure would bring poverty and misery to such a spender, degrade him in society and make life unbearable." Ṭabāṭabā'ī then concludes that both such extremes are prohibited by the above verse.[131] But it is obvious that such opposite conclusions in relation to a single verse is motivated by incentives beyond the text.

Contemporary Commentaries on the Classical Exegeses

Among contemporary Qur'ānic exegetes, the commentator Ṭabāṭabā'ī has conducted one of the most elaborate and critical treatments of the classical exegeses in *Al-Mīzān*. Relevant to the subject of war, in his consideration of the classical commentators Ṭabāṭabā'ī notably shifts his focus towards war causality rather than the quality and the scope of war.

While Ṭabāṭabā'i acknowledges the legitimacy of limited primary (offensive) wars, he points out that the frequently repeated phrase 'in the way of God' in the Qur'ān proves that for the Scripture, the cause of war is more important than its results.[132] This is not in coherence with the more result-sensitive consequentialist modern just war

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[131] Ṭabāṭabā'ī, *Al-Mīzān, An Exegesis of the Qur'ān*, Translated to English Sayyid Saeed Akhtar Rizvi, vol.3, (Tehran: World Organization for Islamic Services, 1973) 91, 92.

[132] This view is a double edged sword for it can instigate an unlimited war (a war beyond conventional objective results), or a very limited war (a war that ends before attainment of any objective result).

theories as will be discussed in Chapter Eight of this work. Ṭabāṭabā'ī, nevertheless, takes a comparatively moderate perspective and emphasizes that the goal of war can not be total dominance or victory over the non-Muslims, rather, he claims that war is limited and sanctioned only to defend legitimate human rights based on what he terms "common sense and natural law embedded in the nature of human being (*fiṭra*)."[133] It is within this spirit of universal rights that Ṭabāṭabā'ī is quite conscious of the law of proportionality in war, and therefore supports the just-war maxim that the gains of war must be more than its losses.[134] Furthermore, he does not see any need for the multiple abrogation proposed by militant exegetes who have sought to assert the more militant Qur'ānic verses on the top of the lenient ones.

Regarding the afore-mentioned controversy concerning the interpretation of the word *i'tadā'*, Ṭabāṭabā'ī places emphasis on the anti-transgressive nature of this word. Accordingly, for this commentator the term connotes a prohibition of several deeds: unprovoked battle, the harm of women and children in war, of warring without properly inviting the non-Muslims to peaceful settlements, and finally warring when the enemy is inclined towards peace.[135]

The above argument however does not inhibit the emergence of a fatalist and determinist theory in Ṭabāṭabā'ī's view on the ultimate status of the relations between the worlds of Muslims and non-Muslims, i.e. the unavoidability of the Armageddon type encounter. This conviction in a final and decisive war is in part derived from his readings of the verses Q.22:39, 40 and Q.2:251,[136] both of which view the act of war

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[133] Ṭabāṭabā'ī, *Tafsīr al-Mīzān*, vol.1, 80. Some similar traces of though was observed in the views of Ṭabāṭabā'ī's student Muṭahharī on justifying war on the ground of defending 'human rights.' See Chapter Three of this work.

[134] Ṭabāṭabā'ī, *Tafsīr al-Mīzān*, vol.1, 95.

[135] Ṭabāṭabā'ī, *Tafsīr al-Mīzān*, vol.1, 80.

[136]Q.22:39, 40: "Permission [to fight] has been given to those who are being fought, because they were wronged. And indeed, Allāh is competent to give them victory. [They are] those who have been evicted from their homes without right-only because they say, "Our Lord is Allāh." And were it not that Allāh checks the people, some by means of others, there would have been demolished monasteries, churches, synagogues, and mosques in which the name of Allāh is much mentioned [i.e. praised]. And Allāh will surely support those who support Him [i.e., His cause]. Indeed, Allāh is powerful and Exalted in

from an instrumental perspective.[137] However, Ṭabāṭabāʾī rejects implicit social Darwinism as the logic used in the above Qurʾānic verses that justify wars as barriers against world's corruption; the Darwinist natural conflict, Ṭabāṭabāʾī stresses, can not save humankind from corruption, for it destroys plurality. Rather, he asserts that the kind of war supported by the Scripture is a defense in favor of the very fabric of the society.[138] "A perfect defense of human's basic and intrinsic rights," he asserts, "entails the expansion of the obligation (ḥukm) for jihād."[139] According to this principle, which informs Ṭabāṭabāʾī's central social theory, the fulfillment of this obligation is intrinsic to the nature of humanity, because the desire to employ members of one's community in service to those in power is only natural. Essentially, it is this natural faculty in humankind that constitutes the central cause of societal formations.[140] Relevant to the matter of conflict, in Ṭabāṭabāʾī's perspective once members of the society resist such employment (read: exploitation), this opposition leads to war. Furthermore, in a consequentialist spirit, he believes that war sometimes is quite necessary to impose upon certain people what is deemed beneficial for them.[141]

It is important to note that Ṭabāṭabāʾī contradicts himself within this argument by predicting, on the one hand, an inevitable armed encounter, and by asserting, on the other, that the future generations of human beings will incline willingly towards the law of nature and through the means of religious education, will be Unitarian (muwaḥḥid) and faithful (thus no need for conflict).[142] Although Ṭabāṭabāʾī emphasizes the

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Might. Q.2:251: "…And if it were not for Allāh checking [some] people by means of others, the earth would have been corrupted, but Allāh is full of bounty to the worlds."

[137] Elsewhere Ṭabāṭabāʾī asserts that war is an unavoidable instrument to remove all vices from human societies and that it also serves as an ultimate test to differentiate between believers from non-believers. See *Tafsīr al-Mīzān*, vol.2, 438.

[138] Ṭabāṭabāʾī, *Tafsīr al-Mīzān*, vol.2, 430-31.

[139] Ṭabāṭabāʾī, *Tafsīr al-Mīzān*, vol.1, 89.

[140] Ṭabāṭabāʾī, *Tafsīr al-Mīzān*, vol.2, 415.

[141] Ṭabāṭabāʾī, *Tafsīr al-Mīzān*, vol. 2, 415. Similar views that his student Muṭahharī shares.

[142] Ṭabāṭabāʾī, *Tafsīr al-Mīzān*, vol.1, 92.

defensive nature of war in Islam because he believes that it serves to support the obligation to defend human's natural rights, he also notes the scriptural permissibility of primary (offensive) wars, by referring to the pre-Islamic prophetic war legacies reflected in the verses Q.3 :146[143], 5 :24[144] and 27 :37.[145]

However bold Tabātabā'ī proves to be in his critical view of the classical exegeses and in opposing the extreme implementation of abrogation (*naskh*) law in the Qu'rānic exegesis, because of his inconsistent arguments, Tabātabā'ī has failed to resolve the main controversy therein between the free choice of faith and the use of force for expanding Islamic rule.

In essence, the above conflicting views among the classical exegetes and their contemporary critiques can be reduced to three official Islamic perspectives regarding war: limited war only as a retaliatory and deterrent measure, primary (offensive) yet limited war for defense and moral (corrective) expansionism, and continuing state of war for the ultimate and definite Islamization of the world. For the first perspective, war is only the last resort; for the second, it is an option; and for the third it is an ultimate means of total conversion.

War within the Qur'ānic Ethical Structure

Izutsu maintains that humanitarian ethics in the Qur'ān is a mirror of what he calls the divine ethics concerning the basic ethical relationship of man to God.[146] He stipulates that this emulation is specifically exampled in the verse Q. 24: 22:

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[143] Q.3:146: "And how many a prophet [fought and] with him fought many religious scholars. But they never lost assurance due to what afflicted them in the cause of Allāh, nor did they weaken or submit. And Allāh loves the steadfast."

[144] Q.5:24: "They said, "O Moses, indeed we will not enter it, ever, as long as they are within it; so go, you and your Lord, and fight. Indeed, we are remaining right here."

[145]Q.27:37: "Return to them, for we [Solomon] will surely come to them with soldiers that they will be powerless to encounter, and we will surely expel them therefrom in humiliation, and they will be debased." See Tabātabā'ī, *Tafsīr al-Mīzān*, vol.1, 92-3.

[146] Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 17.

And let not those of virtue among you and wealth swear not to give [aid] to their relatives and the needy and the emigrants for the cause of Allāh, and let them pardon and overlook. Would you not like that Allāh should forgive you? And Allāh is Forgiving and Merciful.

From his analysis of this verse, Izutsu claims that because in the Qur'ān God Himself is always ready to forgive; therefore, human beings should follow this divine example and pardon and forgive.[147] Importantly, this methodology as developed by Izutsu is applicable to the understanding of the Qur'ānic perspective on war and peace; essentially, the attitude of God towards his enemies provides a paradigm of behavior regarding the situation of war causality and the appropriate methods in the resolution of such conflicts.

In order to explore this sacred paradigm, it is necessary to explore two relevant arguments of Izutsu; specifically, it is important to understand how the Qur'ān treated and reoriented the *Jāhilī* tribal culture's virtue of courage, and also to appreciate the status of *ḥilm* within the Qur'ānic ethical structure.

Regarding the Qur'ānic treatment of *Jāhilī* courage, Izutsu notes that in this pre-Islamic culture, 'blood vengeance' functioned as the greatest sign of courage and was the supreme law of the desert, connected most strongly with the Arab idea of honor. "Persistence in seeking revenge," Izutsu asserts, "was an essential constituent of the conception of *murūwah*, or the highest moral ideal of the Bedouin."[148] He notes that this 'disease of honor' (a phrase borrowed from Nicholson) was so "deep-rooted in the soul of the pagan Arabs that it could not be extirpated all at once."[149] In order to both mitigate and control the cause of and the methods implemented in these cultural notions of tribal hostility, Izutsu asserts that the religion of Islam introduced the concept of peaceful settlements through blood wit; yet more importantly, the institution of Islam transposed the right of taking vengeance from a function of humanity to strictly the realm of God.

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[147] Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 19.

[148] Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 68.

[149] Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 68.

To complete the example of divine behavior, Izutsu's argument regarding the nature of *ḥilm* provides the central motivation of the scriptural approach to ethics in conflict. Within his arguments on Qur'ānic ethics, Izutsu notes that the virtue of *ḥilm*, a term that encompasses the virtues of forbearance, patience, self-control against rage and instant passion, is adopted by the Qur'ān as the central point of its moral system.[150] It is obvious that the containment of *Jāhilī* cultural predisposition towards blood revenge and the introduction of self-restraint as a primary Qur'ānic virtue would have vast mitigating effects on both the cause and the methods of sacredly sanctioned wars, given the scriptural consistency.

Note also should be taken that according to Q.3:134, the acts of 'restraining anger (*kazm al-ghayz*),' and 'pardoning the people (*'afw 'an al-nās*) are introduced as two important attributes of the righteous (*al-muttaqīn*).[151] It is in this context that a more detailed view of God's attitude towards His enemies is necessary in order to provide a better understanding of the supreme role model that is supposed to be followed by His human subjects.

God's Treatment of His Archenemy

In the religion of Islam, the Satan (*al-Shaytān*, or its proper name *Iblīs*) is addressed in the Qur'ān as the greatest enemy of God and humans in a broad sense. Notably, the Qur'ān points that, the Satan's foremost transgression was his disobedience to God's

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[150] Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 69. It is important to note that the new testament puts a remarkable emphasis on a similar notion to *ḥilm* as an essential devine virtue. Jesus asserts in one of his prayers: "Blessed are the meek, for they will inherit the land." See Saint Joseph, ed. *The New American Bible,* (New York: Catholic Book Publishing Co. 1991) Matthew: 5:5, p.1706. Izutsu's assertion on the centrality of *ḥilm* in the Qur'anic moral system also agrees with al-Ghazālī's view in *Iḥyā' 'Ulūm al-Dīn*. See Abū Ḥamid Moḥammad Al-Ghazālī, *Iḥyā' 'Ulūm al-Dīn, Rub'i Muhlikāt,* Translated by Mo'ayyid al-Din Khwarazmī, Edited by Husayn Khadīv Jam, (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1374/1975) 363-370.

[151] Q.3:132-134: "And obey Allāh and the Messenger that you may obtain mercy. And hasten to forgiveness from your Lord and a garden [Paradise] as wide as the heavens and earth, prepared for the righteous. Who spend [in the cause of Allah] during ease and hardship and who restrain anger and who pardon the people-And Allāh loves the doers of good.

order obliging all angels to prostrate before Adam as the first human.[152] According to the Scriptural narration, Satan's foremost reason for his disobedience was that he is made from fire, a substance he viewed to be superior to soil from which the body of Adam was made. According to the Qur'ān, subsequent to this defiance Satan was condemned and cursed by God till the Day of Resurrection, although at the same time Satan was given free reign to lead God's subjects, i.e. human beings, astray.[153] The Qur'ān reports that this requested freedom was granted to Satan through negotiations that he had with God subsequent to the latter's curse.

It is notable that the greatest enemy of God, subsequent to his defiance and condemnation, negotiated with the angry Master and gained two concessions that were not insignificant: an almost eternal time to perform and an open hand to tempt the entire genre of God's favorite creatures to disobey their Master as Satan did himself. Despite the consequences i.e. proliferation of new enemies, the restraint and generosity God showed with his archenemy reveals yet again an exemplar of divine ethics in the treatment of the opposition in conflict.

Significant to an understanding of the Qur'ānic ethics of conflict is the story of the Divine attitude towards His worst enemy, and how this example serves as a model of magnanimity even with the staunchest opposition.

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[152] Q.2:36: "And when We said to the angels, "Prostrate before Adam;" so they prostrated, except for Iblees. He refused and was arrogant and became of the disbelievers." See also Q.7:11.

[153] Q.7: 12-18: "[Allāh] said, "What prevented you from prostrating when I commanded you?" [Satan] said, "I am better than him. You created me from fire and created him from clay [i.e.' earth]." [Allāh] said, "Descend from it [i.e., paradise], for it is not for you to be arrogant therein. So go get out; indeed, you are of the debased." [Satan] said, "Reprieve me until the Day they are resurrected." [Allāh] said, "Indeed, you are of those reprieved." [Satan] said, "Because You have put me in error, I will surely sit in wait for them [i.e., mankind] on Your straight path. Then I will come to them from before them and from behind them and on their right and on their left, and You will not find most of them grateful [to You]." [Allāh] said, "Get out of it [i.e., Paradise], reproached and expelled. Whoever follows you among them-I will surely fill Hell with you, all together." Q. 15:34, 35 "[Allāh] said, "Get out of it [Paradise], for indeed, you are expelled. And indeed, upon you is the curse until the Day of Recompense." Q.15:39: "[Iblees] said, "My Lord, because You have put me in error, I will surly make [disobedience] attractive to them [i.e., mankind] on earth, and I will mislead them all." See Q.17: 61-65; Q.18:50; Q.20:116; Q. 38:74-83; Q.72:4.

The Moral Mode of Mercy

As will be discussed in the next chapter, one of the great fathers of mystic literature namely Ibn al-'Arabī, developed the theory of the primacy of mercy over divine wrath based on a Prophetic ḥadīth. This argument parallels Izutsu's moral view of the Qur'ān.

It is known that all the Qur'ānic chapters (*suras*) with one exception (*Surat al-Towba*) begins with the phrase: "In the Name of God, the Compassionate, the Merciful." One of the latest English translation of the Qur'ān translates the phrase,

بسم الله الرحمن الرحيم as: "In the name of Ahllāh, the Entirely Merciful, the Especially Merciful."[154] The translators assert that, "*Ar-Rahmān* and *ar-Raheem*, are two names of Allāh derived from the word '*rahmah*' (mercy). In Arabic grammar both are intensive forms of 'merciful' (i.e. extremely merciful)." The authors further point that, "A complementary and comprehensive meaning is intended by using both together."[155] It is very obvious that such emphatic usage of the notion of mercy both in the beginning of almost all Qur'ānic verses and frequently within the text itself underline the divine rejection of the opposite notions namely, wrath, anger, punishment, retaliation and conflict. The over-emphasis on mercy in the Qur'ān, therefore reveals that the Scripture is primarily composed under the moral mode of mercy. This notion is also in full concordance with the fact that 'peace' (*salām*) is among God's ninty nine names as reflected in the ḥadīth literature.

The Qur'ānic Contexts of Jihād, Ḥarb, and Qitāl

Among the three main terms used in the Qur'ān to denote war and battle, namely jihād, *harb and qitāl,* the word jihād is the most frequently used term. Notably, the root verb of jihād and its various derivatives are used about thirty two times in the Scripture.[156] Within these many mentions, at least a third, use jihād in the sense of striving with

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[154] *The Qur'ān,* Translation and Commentary by Ṣaḥeeḥ International, (London: 1997) 1.

[155] *The Qur'ān,* Translation and Commentary by Ṣaḥeeḥ International, (London: 1997) 1.

[156] Q.49:15, 22:78, 25:52, 5:54, 6:109, 24:53, 29:6, 29:8, 9:41, 9:44, 9:19, 9:81, 9:23, 61:11, 31:15, 9:73, 66:9, 60:1, 4:95, 47:31, 5:35, 3:142, 9:16, 9:88, 9:86, 16:110, 29:69, 2:218, 8:72, 8:74, 8:75 and 9:20.

one's property.[157] Importantly, this sense of inner striving eliminates the necessity of warring as the only option and means for a sacred struggle. In a few other verses, the related root word *jahd* is connoted as an 'endeavor,' completely outside of the realm of war.[158] Furthermore, in at least two cases *jahd* refers to 'strength.'

Another term for conflict, *ḥarb* (warring), is used around six times in the Scripture to connote wars (real as well as symbolic) launched by infidels against God.[159]

As was mentioned previously in this chapter, in many other Qur'ānic verses where the word *qitāl* is used for war,[160] God's warring position is cast in the airs of retaliation, to be waged only against the already warned and conscious intransigents. In other words, warring is not supported by the Scripture when it is commenced without justification and warning, or when the oppositions are not conscious of their hostile actions, nor when the oppositions are not involved in anti-Muslim conspiratorial acts.

Specifically, verse Q.5:64 reflects these conclusions on sanctioned conflicts by referring to the divine's essential opposition to war: "...every time they kindled the fire of war, Allāh extinguished it." Furthermore, according to Q.5:15-16 the Qur'ān is introduced as the ultimate guide to peace: "There has come to you from Allāh a light and a clear book by which Allāh guides those who pursue His pleasure to ways of peace." From the example that the Qur'ān sets for its adherents, it would be the highest

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[157] Q.9:88, 8:72, 9:29, 9:41, 9:81, 9:88, 4:95, 49:15, 9:44 and 61:11.

[158] Q.29:8, 31:15 and 22:78.

[159] Q.9:107, 5:33, 47:4, 2:279, 8:57 and 5:64.

[160] The word *qitāl* (battle), its root and derivatives are used in the Qur'ān at least three times more than jihād; cf Q.2:54,72, 84, 85, 178,190, 191, 193, 213,216, 217, 245, 246, 247, 255; Q.3:13, 21, 111, 112, 146, 157, 158, 159, 180, 195; Q.4:74, 75, 76, 77, 84, 89, 90, 92, 93, 157; Q.5:27, 28, 30, 32, 95; Q.6: 138, 140; Q.7: 141, 150; Q.8:16, 17, 39; Q.9: 5, 12, 13, 14, 29, 30, 36, 123; Q.17: 33; Q.18: 17, 73; Q.22: 39, 40, 58; Q.25:68; Q.26: 14; Q. 28: 9, 15, 19, 33; Q.33: 16, 20, 25, 26, 27, 61; Q.40:26, 28, 29; Q.48:22; Q.49: 9; Q.59: 11, 12, 14; Q.60: 8, 9, 12; Q.61:4; Q.73:4; Q.74: 19, 20. Moḥaqqiq-Dāmād argues that, "...the word *qātilū* (fight) is derived from the infinitive *muqātala*. This rhymes with *mufā 'ala*, which, in Arabic, signifies participation on both sides. In this particular context, the word choice implies that Muslims are not allowed to fight with those who do not fight with them because *muqātala* (mutual fight) can be realized only when one fights with the party who fights with him. Therefore, if Muslims fight with those who are at peace with them, this evidently cannot be called *muqātala* (mutual fight), but would be considered a kind of invasion, raid or plunder that cannot be reconciled with the meaning of the verse." See Moḥaqqiq-Dāmād, (2005) 328.

degree of conceptual incoherence if wars commenced under the banner of the Scripture would seek anything but respect for contracts and peace in pluralistic societies.[161] That is why, Q.2:213 clearly points to all scriptures as the primary means of conflict resolution for mankind.[162]

Conclusions

This examination of the Qur'ānic perspective on the ethics of war has progressed through two important tasks: first, the attempt to bring divergent exegetical extremes to a middle ground, and also by taking an ethicist, rather than a legalistic, perspective. Among the conclusions that this chapter has reached is that the Qur'ān does not sanction unprovoked primary (offensive) wars; that the main causes of legitimate wars are the breach of contracts and defensive / deterrent exigencies; that reciprocation in war is limited to the removal of an actual threat; that in situations of conflict outbreak, it is the leadership of the warring party, and not its subordinates, that must be subject to punishment; that faith by itself can not be the motivation of physical conflict and finally that peace is essential in the Scripture. Importantly, a moralistic approach in Scriptural exegesis, such as that taken by this argument, will be much less prone to war than a legalistic perspective based on the traditional commentaries.

From the points touched upon in this chapter, there is little doubt that the Qur'ān adopts an instrumental and at times a consequentialist position on war. At times, within the ethical directives of the Qur'ān, war loses its position as a vice; rather, it becomes a legitimate means to suppress other vices, such as living under oppression or being at the receiving end of aggression.

There has been a tendency among some of the classical Qur'ānic exegetes to take an essentialist position that considers war not as one among other ways of defense,

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[161] The verse's reference to "ways of peace" conveys such sense of pluralism in the opinion of the author.

[162] Q.2:213: "Mankind was one community (*umma*); then Allāh sent the prophets as bringers of good tidings and warners and sent down with them the Scripture in truth to judge between the people concerning that in which they differed…"

deterrence, and the implementation of justice, but as an exclusive means that could test the degree of one's religious fidelity in an epical and romantic sense.

It is such liberalness in interpretation that has permitted certain classical exegetes to justify wars not only against actual threats, destabilizing conspiracies or aggressions, but also against passive differences of opinions and faiths.

The fact that this tendency has its sporadic footprints even among some modern works of exegesis is owed to certain uncritical and apologetic Muslim readings of the classical literatures. This radical intellectual trend is probably rooted in the fact that the jurists who appeared around the beginning of the second century of the Islamic rule – who according to Shacht were about seven at the time[163] – did little critical reading of the Umayyad's wars. Modern ethicists such as Izutsu and jurists like Ṣāliḥī-Najafābādī, Kadivar, Muhaqqiq-Dāmād, and Iskandarī[164] however, by the methodological moral and legal deconstruction of the Scripture have been able to reveal and overcome these exegetical biases.

As has been often noted in the present argument, the breach of intra-religious and inter-religious peace treaties is systematically noted in the Qur'ān as the most important, if not the only, legitimate cause of war. Importantly however, such divine sanction is immediately checked, contained and limited to a point where security against the transgression is established.

In conclusion, war in the Qur'ān is only an instrument, among many others, that can be used only in a limited sense and only to establish peace. If *ḥilm* is the most important Qur'ānic virtue as Izutsu held, and if the most legitimate cause of war in this system is breach of contract, as this chapter established, then war can not be used within

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[163]It it important to note the most prominent Muslim jurists appeared between the beginning and the end of the second century AH (al-Ṣādiq d. 148 AH, al-Shāfiʿī d. 199AH). Prominent Muslim theologists appeared with the Muʿtazili thinkers from the beginning of the second to the beginning of the fourth (Wāṣil ibn ʿAṭā' d. 131 AH, Abū ʿAlī Jubbāʿī d. 303AH), and the Ash 'rites from the beginning of the fourth century AH (Abu'l Ḥasan Ashʿrī d. 330AH). Major exegetes appeared from the middle of the third to the end of seveth century AH (al-Ṭabarī d. 922CE, Baydāwī d. 1316 CE). The Medieval Muslim philosophers appeared between the middle of the third to the end of sixth century AH (al-Kindi d. 252AH, Ibn Rushd d. 595AH). As noticed above Islamic jurisprudenc and theology were about one and a half century ahead of Islamic exegesis and philosophy.

[164] The views of the latter four scholars will be discussed in the next chapter.

the same ethical system except as the most limited and the last option in reestablishing a contractual basis for peaceful social coexistence.

In modern times, there appears to be a distinction between the instrumental views of war that looks at it as a means of deterrence, justice and defense on the one hand, and the essentialist view of war as a human activity with inherent values on the other. Indeed, too often the Islamic concept of war is popularized as a battle of Muslims versus the unbelievers. Because of the increasing relevance of the Islamic position on conflict and peace, not only between Muslims themselves but also between Muslims and the non-Muslim world, this argument on the Qur'ānic perspective of the ethics of war is invaluably constructive to the project of interfaith understanding and peaceful coexistance.

This chapter pointed at some of the Qur'ānic exegetical controversies about war. But such theoretical conflicts were not produced outside a historical context. They were rather the bi-products and mirrors of conflicts in other arenas of the Muslim history. The next chapter will reflect on some of the post-Prophetic conflicts and the resulting intellectual reactions within the Shī 'ite world throughout later centuries.

CHAPTER THREE

SHĪʿĪ WAR ETHICS: A CRITICAL REVIEW

صلاح ذات البين افضل من عامة الصلاة و الصيام

"I heard from your grandfather, the Prophet, that conflict-resolution (*iṣlāḥ dhāt al-bayn*) is more important than daily prayers (*ṣalāt*) and fasting (*ṣiyām*)"[165]

ʿAlī Ibn Abī Ṭālib in his last will to his children

"Nothing is more inviting of divine retribution, greater in (evil) consequence, and more effective in decline of prosperity and cutting short of life than the shedding of blood without justification

ʿAlī Ibn Abī Ṭālib in his letter to Malik al-Ashtar

This chapter will focus specifically on the war ethics of Shīʿī Muslims. The overall goal is to provide a concise account of the most important factors in the formation of traditional Shīʿī war ethics, in light of the modern critical views of this tradition. The study of Shīʿī war ethics is important not only because the Shīʿī school of law is an important school of law side by side with the four Sunnī schools, but also because a greater part of Islamic ethics as a discipline has been developed by a few notable Shīʿī authors.[166]

The Mammoth Empire and Ethical Insensitivity

There is a general consensus among modern scholars of pre-Islamic Arabia that the tribal campaigns and raids were unavoidable ways of economic survival for tribal

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[165] Sharīf Raḍī, ed, *Nahju'l-Balāgha*, Ahlu'l-Bayt Assembly of America, Potomac, Maryland, 1996, p. 235. Also see Ibn Aʿtham, p.753. Another Prophetic ḥadīth goes further: "Said the Apostle of God: Indeed remembrance of God in mornings and at nights is better than breaking the swords in the way of God." (قال رسول الله: لذكر الله بالغدو و الآصال خير من حطم السيوف فى سبيل الله عز و جل) See Muḥammad Ibn al-Ḥasan al-Ḥurr al-ʿĀmilī, *Wasāʾil al-Shīʿa ilā Taḥṣīl Masāʾil al-Sharīʿa, Kitāb Jihād al-Nafs,* Ali Afrasiyabi, trans. (Qumm: Entesharat-e Nahavandi, 2001), 351.

[166] These authors include al-Fārābī, Ibn Miskawayh, Ṭūsī, Dawānī, and Aḥmad and Mehdī Narāqī.

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life. Military campaigns and forays, in other words, represented a mode of economy. However, this incentive was gradually overshadowed by non-mundane motives among early Muslim warriors as the Islamic state was established under Prophet's leadership. Once the ideological zeal of the post-Prophetic warriors gave way again to concern for worldly gains, the humanitarian ideals became less important. In the early eighth century, for example, the Muslim commander 'Ayāẓ Ibn Ghanam, disappointed after besieging the Roman city of Nasibayn unsuccessfully for one year, resorted to the contemporary equivalent of biological weapons in contravention with the *sharī'a*. He managed to have baskets of scorpions thrown into the city, causing indiscriminate slaughter among the civilians and, thereby, reducing the city through terror and fear.[167] Such a blind assault as well as any use of weapon of mass-destruction as Mohaqqiq-Dāmād asserts, is strictly forbidden by Islamic law.[168] But apparently the said commander was insensitive enough to the moral aspect of the war altogether.

In political matters, the mammoth Muslim empire similarly lost its humanitarian sensibilities under the Umayyads and Abbasids. Most Muslim warriors saw their stunning victories as proof of God's support for their cause.[169] This view was shared among the conquerors and the conquered with serious implications for their treatment of enemy combatants.[170] The win-win philosophy of Muslim wars (material rewards if one

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[167] Ibn A'tham, *Al-Futūḥ*, 199-200. Also look at Khadduri, *War and Peace In Islam,* 174, referring to the use of lethal materials in wars. Note must be taken that for their indiscriminate impact, the use of poison, fire, and flood in war is forbidden according to many jurists. See Ḥussaynī al-Zurbāṭī, Al-Sayyid Ḥussayn. *Aklāq al-Ḥarb fi al-Islam, bayna al-Naẓariyya wa' Taṭbīq,* (Qum: Entesharat Dar al-Tafsir, 2002) 85. He refers to the view of al-Ḥillī, in *Al-Sarā'ir.*

[168] See Mohaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws,* (2005) 100.

[169] There might be some exaggerations in the war chronicles reporting the miracles of Muslim military victories, but given the rather fast pace of conquests, there could be no other term to explain the phenomenal military triumphs. Ibn A'tham reports in *Al-Futūḥ* that in a conflict with the Roman forces, twenty thousand Muslims against sixty thousand Romans inflicted a human toll of fourteen thousand Romans, as opposed to only seventeen Muslims. To look further into the miracles of the numbers, consider Ibn A'tham's reports on other battles: Persian commander Mehrān with eighty thousand against Abū 'Ubaida with five thousand troops; Rostam with one hundred fifty thousand against forty thousand. See *Al-Futūḥ,* 91, 96, 105.

[170] For example, the statement of Hurmuzān, the Persian army commander (captured in 640 CE) who was brought before 'Umar, is very revealing as to how the non-Muslims conceived such thunderous

lives, and heaven if one dies), created a moral mix. It resulted in extreme courage and fearlessness of Muslim warriors in the battlefields on the one hand, but on the other, little concern to save lives on either of the battling sides. How could a warrior in God's army care much about the life or wellbeing of a perceived enemy of God, except if he had been warned in advance that an unjustified killing may turn a martyr into a murderer?

The ill treatment of prisoners of war, therefore, was not very exceptional; nore was it far from the contemporary conventions outside the Islamic world. Besides Khālid Ibn Walīd, other Muslim commanders engaged in excesses. In one instance, Abū Mūsā Ash'arī besieged and captured the Persian city Manādher and then massacred all males, including many children who had not yet reached puberty.[171] On another occasion, 'Umar rebuked Abū Mūsā for having broken the terms of a general amnesty he had given to the people of Rāmhurmuz; Abū Mūsā broke the agreement by attacking the city before a deadline had expired.[172]

The caliph Abū Bakr issued the last important decree regulating the moral conduct of Muslims fighting in Byzantine and Persian lands.[173] The subsequent caliphs 'Umar Ibn al-Khaṭṭāb and 'Uthmān Ibn 'Affān promulgated nothing similar to it.[174] 'Alī Ibn Abī Ṭālib, upon assuming leadership of the Muslim community, was confronted

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Muslim victories. Hurmuzān uttered to 'Umar: "In the past, God was neutral in wars, and had given us a free hand, thus our dominance upon you." To this assertion, 'Umar responded: "No, the reason was that you were united and we were not." See Khadduri, *War and Peace In Islam*, 196.

[171] Khadduri, *War and Peace In Islam*, 212.

[172] Khadduri, *War and Peace In Islam*, 216.

[173] See Abū Bakr's moral advice to his commander Yazīd ibn Abī Ṣūfyān on his way to a Syrian conquest: "oh Yazīd, stay firm in Jihād..., be cognizant that you are on your way to a land which is full of enemies and blessings too. Do not be distracted, under any circumstances, from remembering Allāh, and make your heart always available in his domain, never seek killing of women and children, do not uproot or cut palm and fruit trees; do not try to kill children and the elderly; and do not kill any-body in vain. Stay away from destroying buildings and developments, and be attentive to all this so that God may grant you victory as He is the Omnipotent." See Ibn A'tham, *Al-Futūḥ*, 57.

[174] A few and very scant ḥadīths reflected in the Sunnī sources refer to a few short advices from 'Umar that are far shorter than the elaborate war ethics command narrated from Abū Bakr and 'Alī. The author did not find similar commands to have been issued by the third caliph 'Uthman. See Al-Sayyid Hussayn, Hussaynī al-Zurbāṭī. *Aklāq al-Harb fī al-Islam, bayna al-Naẓariyya wa al-Taṭbīq*, (Qum: Entesharat Dar al-Tafsir, 2002) 71.

with the very different circumstances of civil war. The domestic insurgency he encountered during his caliphate lacked any precedent. As a result, it entailed new moral and legal codes.

Military success under 'Umar helped influence the views of later jurists. By the time of 'Umar's assassination in 644 CE, the Islamic empire had managed to expand to include Persian and Roman territories. These stunning successes impressed the jurists of subsequent centuries to such an extent that they concluded a military conquest each year should be obligatory for any Muslim caliph. The Kharijites (an Islamic sect who rebelled against the fourth caliph) went further and declared jihād as one of the pillars of Islam. In this way, the larger political and economic gains from military conflict became much more important than the methods employed for its success.

The Balance of Human Life and Arabism

It is appropriate to look further into the records of 'Umar's behavior for two reasons; first as caliph, he stood at the top of the Islamic government. Secondly, he enjoyed renown for his ascetic and puritanical way, as opposed to his successors, such as 'Uthmān, or Mu'āwiya.

On the question of electing his successor, it is well known that 'Umar proceeded with a democratic selective process, as opposed to the method of decree by which he obtained office. When he became certain that he would soon pass away, he convened a committee of six prominent companions and placed the matter of succession in their hands. Out of these six, namely, 'Uthmān Ibn 'Affān, 'Alī Ibn Abī Ṭālib, 'Abder Rahmān Ibn 'Awf, Sa 'd Ibn Abī Waqqāṣ, Zubayr Ibn al- 'Awwām, and Ṭalha Ibn 'Ubaidallāh, only the last was not present. A committee composed of the first five then agreed on the selection of the next caliph. 'Umar appointed Abū Ṭalḥah al-Anṣārī to oversee the procedure with the following instructions:

> As soon you finish my burial, you will not let the committee of five go away for three
> days. By the fourth day they must have elected one among themselves. If there is one

who disagrees with the other four you must kill him; if there are two against three you must kill them, and if they all disagree among themselves, kill them all.[175]

While 'Umar might have imposed such terms as a safeguard against the possibility of division in the young Muslim empire, there was no guarantee the person receiving the instructions would not fail to make a distinction between a means to deter and a matter of obligation. These instructions, in fact, contravened the Qur'ānic decree in Q.5:32 which states that "whosoever kills a human being, except (as punishment) for murder or for spreading corruption in the land, it shall be like killing all humanity..."[176]

In other matters, according to al-Ṭabarī, 'Umar showed his strong preference for Arabs. He believed Arabs were the spirit and the essence of Islam, and that Arabs should not be taken into slavery.[177] In a modern context, this attitude amounts to cultural chauvinism. It contravenes the spirit of the Qur'ān represented in verse Q.49:13.[178]

These views had implications for the war tactics, strategies and ethics. They undermined sensitivity for the casualties of non-Arabs and non-Muslims. It is not very surprising, consequently, that unlike the Prophet and Abū Bakr, 'Umar issued little humanitarian advice to his military commanders.[179]

With the transfer of the caliphate to 'Uthmān, and the new caliph's tendency for favoring his relatives, power politics gained formidable roots. The government's appetite increased for rich conquests. Its interest in regulating the ethics of war

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[175] Abū Ja 'far Muḥammad Al-Ṭabarī, *Tārīkh al-Umam va'l Mulūk* (Persian). 2nd ed. trans. Abū 'Ali Muḥammad ibn Muḥammad ibn Bal'amī (Tehran: Zavvar, 2004) vol.3, 569.

[176] See Orooj, *Al-Qur'ān: A Contemporary Translation.* See also Q.4:93, which reads: "any one who kills a believer intentionally will be cast into Hell to abide there for ever, and suffer God's anger and damnation; for him a greater punishment awaits."

[177] See Khadduri, *War and Peace In Islam*, 203.

[178] See Orooj, *Al-Qur'ān: A Contemporary Translation.* "O men, We created you from a male and female, and formed you into nations and tribes that you may recognize each other. He who has more integrity (more pious or righteous) has indeed greater honor with God". It is significant to note that the verse immediately following this has a critical tone against some of the Arabs (Q.49:14).

[179] Against this general tendency, there are sporadic reports about 'Umar having dismissed Khālid Ibn al-Walīd for his financial misbehavior in Syria and murder of a fellow Muslim in order to have his wife (the infamous story of Khālid murdering Malik ibn Nuwayra to acquire his beautiful wife Umm Tamīm). See Aḥmad Ibn Abī Ya'qūb, *Tārīkh-e Ya'qūbī.* (Beirut: Dar Sader, 1358 AH) vol.2, 10.

declined. As a result, within a short time, Mu'āwiya, the founder of the Umayyad dynasty transformed what was once an accountable caliphate to an unaccountable monarchy.

'Alī Ibn Abī Ṭālib: The Lion and the Dust

It is important to note that 'Alī Ibn Abī Ṭālib, who gained the epithet Abū Turāb (the dust-man) for his humility, assumed the office of caliph not only as a political claimant but a well-known man of learning. He served as a counselor on the *Sharī'a* (Islamic law) for his predecessors.[180] He had experience and faced challenges which his predecessors in the caliphate could not claim. None of them had personally participated in battles after the Prophet's demise. Nor did any of them confront a Muslim insurgency as did 'Alī.[181] They held an easier position in determining the ethics of fighting their enemy and could more easily disavow responsibility for the breach of any law.

As Caliph, 'Alī engaged in three major battles in the first civil war in Islam. He personally participated in these battles and supervised the details of battle tactics, strategies, and rules of engagement in his capacities both as the chief commander and chief jurist. It is this specific combination of factors which made 'Alī's actions standards for Shī'ī ethics of war.

'Alī did not participate in any of the campaigns of conquest after the Prophet's demise.[182] Given the fact that none of the Companions participated in as many wars as 'Alī did, his absence from these campaigns is puzzling. He held critical views on the policies and attitudes of all of his caliphal predecessors which may partly explain the

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[180] 'Umar was frequently quoted to have uttered the proverbial phrase: "*Low lā 'Alīyun la halaka 'Umar* (Was it not for 'Alī, 'Umar would have perished). See Ibn A'tham's report on how 'Umar used to consult 'Alī on matters of laws (*aḥkām*); see Ibn A'tham, *Al-Futūḥ*, 116. See also *The Encyclopaedia of Islam*, new edition, s.v. " 'Alī"by L. Veccia Vaglieri.

[181] It is well known that the first caliph Abū Bakr confronted and successfully suppressed a few uprising by apostates (known as *redda* wars) after the demise of the Prophet, but these small scale clashes were never considered cases of civil war in Islamic historiographies.

[182] *The Encyclopaedia of Islam*, new edition, s.v. " 'Alī"by L. Veccia Vaglieri.

absence.[183] However, he advised each of them on matters of law, ethics, and politics. Moreover, he had not directly encouraged any of the conquests. It is possible that he opposed those conquests in principle, was concerned about the authority behind them, and was dismayed by the methods employed in them.

More generally, 'Alī may have been critical of the policies of Muslim commanders in their campaigns outside of Arabia. 'Ubaidallāh Ibn 'Umar, the son of the second caliph, for example, joined 'Alī's opponent Mu'āwiya in the battle of the Camel out of fear that 'Alī might prosecute him on account of his unjustified execution of Hurmuzān, the Persian prince who converted to Islam. This execution was the result of an unproved suspicion of Hurmuzān's involvement in the caliph 'Umar's assassination. It is the combination of the above factors, that make the study of 'Alī's wars important for the examination of the Shī'ī ethics of war.

Jamal and Ṣiffīn: Two Benchmark Battles for Shī'ī Ethics of War

There is a vast literature about the reasons, conclusions, and the historic significance of the three wars that 'Alī was involved in, namely the battle of the Jamal (Camel) in 656 CE, in which he confronted the Prophet's last wife 'Āyisha, as well as the Prophet's companions Ṭalḥa, and Zubayr; the battle at Ṣiffīn (657 CE) against Mu'āwiya; and the battle at Nahrawān (658 CE) against the Khārijites. Although these battles, especially at Ṣiffīn, led to the most serious theological and political schisms in the history of Islam,[184] the concern here is to search for the ethics of inter-Islamic battles and to see the moral patterns and codes of behavior these wars had established.[185]

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[183]A part of this criticism is reflected in 'Alī's sermons, as reported by Sharīf Raḍī in the *Nahju'l-Balāgha.*

[184] Ibn A'tham, *Al-Futūḥ,* 428.

[185] Elaborate accounts of laws of war with *bughāt* as developed by Sunni and Shī'ī jurists are provided by Khaled Abou El Fadl and Ṣāliḥi-Najafābādī respectively. See Khaled Abou El Fadl, "*Aḥkām al-Bughāt*: Irregular Warfare and the Laws of Rebellion in Islam," in *Cross, Crescent, And Sword: The Justification and Limitation of War in Western and Islamic Tradition,* eds. James Turner Johnson and John Kelsay (New York. Westport, CT., London: Greenwood Press, 1990) 149-176.

'Alī did not initiate these conflicts, rather he tried to prevent each of them through peace initiatives. In the end, he won decisive victories in all three wars after his initiatives failed.[186] He, nevertheless, regretted the bloodshed. As Vaglieri put it:

> After his victory at (the battle of) the Camel, he tried to relieve the distresses of the vanquished by preventing the enslavement of their women and children, in face of the protests of a group of his partisans; when battles ended, he showed his grief, wept for the dead, and even prayed over his enemies.[187]

According to Ibn A'tham, the last peace offer by 'Alī to the instigators of the Camel battle resulted in the murder of his envoy, Muslim of Mushāji'. Yet once 'Amr Ibn Jarmūz, a host of Zubayr outside the warfield, killed him while sleeping and brought to 'Alī his head and arms expecting an award (or a welcome) from 'Alī, 'Alī reportedly burst into tears, cursed and scolded 'Amr, sighed in deep regret and then narrated a Prophetic ḥadīth: "I heard from Muṣṭafā that he promised hellfire for the killer of Zubayr."[188] Ibn A'tham reflects on this mutual astonishment by pointing to the conventional reason brought by 'Amr as to why he killed Zubayr. "I thought I would please you and was sure that he (Zubayr) would never agree with you!"[189] For 'Alī, the demise of those who once had fought on the side of the Prophet was but a tragedy, no matter that they waged a war against himself. This paradoxical mode is perhaps best expressed through a proverbial description by Taoism on War:

> The enemies of the wise are not demons. They are human beings just like himself whom he does not want to destroy. He does not celebrate victory. He enters the war with kindness and sadness. As if he is entering a funeral.

Another highlight of the Jamal battle was the way 'Alī arranged the safe return of one of the three main instigators of the Jamal war against himself. He returned

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[186] Ibn A'tham, *Al-Futūḥ*, 256, 424.

[187] *The Encyclopaedia of Islam,* new edition, s.v. 'Alī, by L. Veccia Vaglieri.

[188] Ibn A'tham, *Al-Futūḥ*, 428.

[189] Ibn A'tham, *Al-Futūḥ*, 428.

'Āyisha, to her home at Medina in full courtesy while sending for her protection a group of women disguised as male warriors.[190] It is important to note that both Zubayr and 'Āyisha were responsible for a war that cost more than ten thousand lives.[191]

The battle of Ṣiffīn was considered an unparalleled tragedy. According to Ibn A'tham, it consumed some seventy thousand lives on both sides.[192] The rebel governor Mu'āwiya, who was allied with the shrewd 'Amr Ibn al-'Āṣ, did not want to relinquish his power in Syria, even if the consequences meant the disintegration of the new Islamic state. For 'Alī, on the other hand, the prospects of either fighting or capitulating were both bitter options.

Like in the case of Jamal Battle, 'Alī pondered the moral basis of his cause before engaging in battle at Ṣiffīn. Given that he reluctantly accepted his position as the fourth caliph, 'Ali was not, in contrast to his adversary Mu'āwiya, fighting for personal status.[193] He only joined battle as last resort to prevent the disintegration of the young Islamic state. Prior to the mobilization of his army, 'Alī called upon a number of the Prophet's companions seeking their views. He received their support and encouragement. One of them, Qais Ibn 'Ubāda, declared:

> Oh commander of the believers! Haste and take us on top of our enemies' heads and do not escape from this battle; I swear to God, that I welcome fighting with the insurgents more than with the Turks and the Romans, because the former party (Mu'āwiya) employed tricks and deceit in faith and has humiliated the companions of the Prophet and their followers (tābi'īn) including muhājirs (Prophet's Meccan companions who immigrated to Medina) and anṣārs (Medinese converts), and felt animosity against them, jailed them, beat them, deprived them, or sent them to exile; they also rendered plundering us (fellow Muslims) as a legitimate act and look at us as slaves.[194]

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[190] Ibn A'tham, *Al-Futūḥ*, 440.

[191] Ibn A'tham, *Al-Futūḥ*, 441.

[192] Ibn A'tham, *Al-Futūḥ*, 441.

[193] Al-Ṭabarī, *Tārīkh al-Umam*, 606. He gives a full report of how 'Alī was resisting the acceptance of the caliphate and tried hard to encourage others, including his later adversaries Ṭalḥa and Zubayr, to accept succeeding 'Uthmān. 'Alī's own words on the matter is the following: "by Allāh, I had no liking for the caliphate nor any interest in government, but you yourselves invited me to it and prepared me for it"; see Raḍi, ed., *Nahjul-Balagha*, 177. See also Ibn A'tham, *Al-Futūḥ*, 389, section four.

[194] Al-Minqarī, Naṣr Ibn Muzāhim. *Waq'at Ṣiffīn*. (Tehran: Sāzmān-e Entishārāt va Āmūzish-e Enqelāb-e Islāmī, 1987) 131-32.

Only a few showed any hesitation.[195] For 'Alī's, the initiator of the conflict was Mu'āwiya. In one of 'Alī's many letters to him, he stated, "You have called me to war...better to leave people on one side, come out to me and spare both parties from fighting so that it may be known who of us has a rusted heart, and covered eyes."[196] However, his words had no effect and the battle commenced.

The composition of the opposing forces at this battle points to the ideological divide between the two sides.[197] According to Lecker, estimates of the number of Prophet's companions on 'Alī's side range as high as twenty eight hundred, including seventy veterans of earlier wars. On the opposite side, the number is only two, and these belong among the last groups of Muslim converts who spent little time with the Prophet.

Moral Norms of Battle: Ṣiffīn

At Ṣiffīn, combat was a last resort in the mind of 'Alī. The most elaborate account of the battle refers to an extensive correspondence between 'Alī Ibn Abī Ṭālib and Mu 'āwiya and his confidante 'Amr Ibn al-'Āṣ reminding them of the illegitimate cause for their opposition.[198] A number of envoys were dispatched between the two parties to mediate but to no result.[199] The negative responses of both Mu'āwiya and 'Amr b. al-'Āṣ were not surprising. 'Amr b. al-'Āṣ had obtained a commitment from Mu'āwiya to appoint him as governor of Egypt once 'Alī was defeated.[200]

When it became clear that Mu'āwiya would not settle for less than a military confrontation, 'Alī mobilized his troops; however, before and even during the

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[195] Al-Minqarī, *Waq'at Ṣiffīn*, 132-44.

[196] See 'Alī's letter number ten; quoted in Raḍī, ed., *Nhjul-Balāgha*, 205.

[197] *The Encyclopaedia of Islam,* new edition, s.v. "Alī Ibn Abī Ṭālib" by M. Lecker.

[198] Al-Minqarī, *Waq'at Ṣiffīn*, 166, 207.

[199] Al-Minqarī, *Waq'at Ṣiffīn*, 259, 269.

[200] Al-Minqarī, *Waq'at Ṣiffīn*, 325.

engagement, he did not miss an opportunity to remind his commanders of the standards of moral behavior to which they must adhere. 'Alī demonstrated his ethical character by giving the following instructions to his troops:

> Do not initiate the battle before the belligerents do, for this is yet another proof of your right motive. In case you win the battle, do not trace a runner away, do not finish off the wounded,[201] do not mutilate, nor disclose private parts of the deceased. If you enter the enemy's camp, do not tear off curtains, do not enter any house except with my direct order; no plunder; no harm to women even if they curse and insult you as they are not in control of their emotion; we refrained in the Prophet's time to bother polytheists women, and in *jāhilī* time if a man harmed a woman, he would have been the subject of blame and humiliation for a long time.[202]

'Alī is also said to have commanded the following in the battlefield:

> Do not shout loud in the battlefield, nor publicly curse our opponents;[203] show patience, forbearance and kindness to your own forces;[204] do not leave your brother alone with the enemy;[205] do not execute any of the prisoners of war;[206] hatred for them (enemy) should not lead you to fight before inviting them to guidance, and exhausting your pleas before them."[207]

'Alī's public pronouncements in war reflect his sense of justice. He implored God, "Oh God, if you make us win, protect us from transgressing our enemy; if you let our enemy win, then honor us with martyrdom and protect our friends."[208]

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[201] Ibn A'tham narrates however, that a specific soldier in 'Alī's camp defied this order and did finish off some of the wounded.

[202] Al-Minqarī, *Waq'at Siffīn*, 174-5, 212, 278-79. See also Raḍī, ed., *Nahjul-Balāgha*, 207, see military instruction number fourteen.

[203] Al-Minqarī, *Waq'at Siffīn*, 145, 303.

[204] Al-Minqarī, *Waq'at Siffīn*, 171.

[205] Al-Minqarī, *Waq'at Siffīn*, 322.

[206] Al-Minqarī, *Waq'at Siffīn*, 641. In fact, immediately after the termination of the war, 'Alī, unilaterally and unconditionally, released all the captives. See Al-Minqarī, *Waq'at Siffīn*, 718.

[207] Raḍī, ed, *Nhjul-Balāgha*, 206.

[208] Al-Minqarī, *Waq'at Siffīn*, 317.

'Ali makes sure at the same time that his moral concern is not interpreted as cowardice. He is quoted by many reports as having stressed: "by Allāh in whose hand lies the life of the son of Abū Ṭālib, certainly a thousand striking of the swords on me are easier to me than a death in bed which is not in obedience to Allāh."[209]

Banning Inhumane Retaliation and Taking Personal Risk

'Ali forbade arbitrary retaliation. His forces at one point, in defiance of his orders, lost a strategic location to the opposing side (near the Euphrates river bank in present-day Iraq). As a result, the forces of Mu'āwiya gained control of and severed the water supply for 'Ali's army. After a rebuke by their commander, 'Ali's forces regained the strategic position in a counterattack so that they were in a situation to retaliate and sever the water supply for Mu'āwiya's forces. Yet 'Ali refused to retaliate in kind.[210]

One of the Muslims who witnessed this chivalrous action was 'Umar Ibn Sa'd al-Waqqāṣ, a commander at the service of Mu'āwiya. Just a few years later, 'Umar would sever the water supply of 'Ali's son Ḥusayn , his household, and about seventy of his encircled and heavily outnumbered troops in Karbalā'.[211]

According to Ibn Muzāḥim, during the prolonged Ṣiffīn battle, 'Ali requested on at least three occasions to duel with Mu'āwiya, however his requests were turned down.[212] Mu'āwiya maintained that the "king's job is not personal fighting."[213] 'Ali taunted Mu'āwiya's cowardice with the following poetry:

<div dir="rtl">

من ای یومی من الموت افر   ایوم ما قدر ام یوم قدر

</div>

In which of the two days should I escape from death?

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[209] Raḍī, ed., *Nhjul-Balāgha*, 89.

[210] Al-Minqarī, *Waq'at Ṣiffīn*, 219-21, 264. See also Ibn A'tham, *Al-Futūḥ*, 526.

[211] Al-Minqarī (*Waq'at Ṣiffīn*, 701). Reports that in fact, the famous agreement imposed on 'Ali at Ṣiffīn was authored by 'Umar ibn Sa'd.

[212] Al-Minqarī, *Waq'at Ṣiffīn*, 375, 432, 530.

[213] Al-Minqarī, *Waq'at Ṣiffīn*, 376.

The day which I am not destined to die; or the day that I am? [214]

'Alī's invitation to duel illustrated his desire to take as much personal risk in battle as he expected from his troops. A duel could, in fact, have saved many lives on both sides.

The Impersonality of War

On certain occasions during combat, 'Alī acted exemplarily. In one encounter, he defeated 'Amr b. al-'Āṣ and was about to finish him off when 'Amr exposed his sexual organ. 'Alī then left him in disgust.[215] Mu'āwiya later used to tease his confidante, saying, "You owe your life to your private part!"[216] For some, this act may be understood simply as a squandered opportunity. For 'Alī, however, he was upholding an ethical standard more important than military victory. This act of chivalry was repeated once again when 'Alī later fought another warrior in Mu'āwiya's army.[217]

'Alī had previously acted in the same manner during one of the Prophet's battles. On that occasion, he had defeated 'Amr Ibn 'Abdawūd, a known polytheist. He was about to finish him off when 'Amr spat on 'Alī. 'Alī released him on account of the spitting provoking anger in him and thus corrupting the holy cause of his combat. The poet Rūmī extolled this chivalry in some of his poetry:

<div dir="rtl">

از علی آموز اخلاص عمل   شیر حق را دان مطهر از دغل

در غزا بر پهلوانی دست یافت   زود شمشیری بر آورد و شتافت

او خدو انداخت در روی علی   افتخار هر نبی و هر ولی

در زمان انداخت شمشیر آن علی   کرد او اندر غزایش کاهلی

گشت حیران آن مبارز زین عمل   وز نمودن عفو و رحمت بی محل

گفت بر من تیغ تیز افراشتی   از چه افکندی مرا بگذاشتی؟

آن چه دیدی برتر از کون و مکان   که به از جان بود و بخشیدم جان؟

در محل قهر این رحمت ز چیست   اژدها را دست دادن راه کیست؟

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[214] Al-Minqarī, *Waq'at Ṣiffīn*, 540. The translation of this poetry into Persian has frequently been used in various texts of Persian wisdom literature as a proverb:

<div dir="rtl">

از مرگ حذر کردن دو روز روا نیست   روزی که قضا باشد و روزی که قضا نیست

روزی که قضا باشد کوشش نکند سود   روزی که قضا نیست در و مرگ روا نیست

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[215] Al-Minqarī, *Waq'at Ṣiffīn*, 577.

[216] Al-Minqarī, *Waq'at Ṣiffīn*, 577.

[217] Al-Minqarī, *Waq'at Ṣiffīn*, 633.

72

<div dir="rtl">

گفت من تیغ از پی حق می‌زنم   بنده حقم نه مامور تنم

چون خدو انداختی در روی من   نفس جنبید و تبه شد خوی من

نیم بهر حق شد و نیمی هوا   شرکت اندر کار حق نبود روا

او به تیغ حلم چندین حلق را   وا خرید از تیغ و چند این خلق را

تیغ حلم از تیغ آهن تیز تر   بل ز صد لشکر ظفر انگیز تر

</div>

The purity in deeds must be learnt from 'Ali
Let it be known that the lion of righteousness is devoid of trickery
In a war, he defeated an enemy warrior
He pulled out his sword and sought to finish him off
The defeated enemy spat on his face
A face that was the honor of every apostle and God's friend
'Ali dropped his sword immediately
and lost his resolve to battle
this act made the released warrior to wonder
about the reason of such an unjustified mercy
Asked he from 'Ali as to why the rise of the sword,
the capture and the release
"What did you see," he asked, "that was more important than existence?"
"Why did you knock me down and then release me?"
"What caused such a mercy where anger must rule?"
"What norm may justify releasing a dragon free?"
So replied 'Ali that "I fight only in the way of the most Righteous."
"I am His slave rather than a server of my own physical desires."
"Once you spat on me, my carnal soul ruined my cause."
"My motive split in half and I was warring partly for my whims and partly for God."
"And it is improper to associate anything with a divine cause."
So many lives were saved by 'Ali's sword of self-control (*ḥilm*),
The sword of self-control is indeed sharper than the iron sword,
Or better to say, it may bring many more victories than a hundred armies.[218]

Patience and self-control (*ḥilm*) was the most important moral value in post-Islamic Arab culture; it kept its status in the early Islamic world. Only belief was more important. Izutsu stresses how *ḥilm* is related to power:

It is essentially a quality of a man who governs and dominates others,
And not of those who are governed and dominated. A naturally weak and powerless man is never called *ḥalīm*, however much he calms down his anger when insulted: he is "weak" simply.[219]

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[218] Jalāl al-Dīn Mowlavī, *Mathnavī-e Ma 'navī*, vol.1, 151-161.

[219] Toshihiko. Izutsu, *God and Man in the Qur'ān*, 207.

It is therefore within the power-wrath equation of war that self-control (*ḥilm*) as a virtue finds its ultimate realization. For this reason, 'Alī Ibn Abī Ṭālib was known as the paradigm of *ḥilm* in war and of *'ilm* (knowledge) in peace. [220]

'Alī sought to prevent combat between kin. On several occasions, it occurred that two brothers, or father and son came across each other in combat. 'Alī ruled that, under such circumstances, the warring relatives must desist.[221] In one case, Uthāl Ibn Hajl encountered his father. After a few exchanges, he recognized him and the two ceased fighting. Uthāl then exclaimed to his father: "I was never unthankful, at your table, to your good education, and to your care for me; my only fear is that I do not want you in hell."[222]

The Sanctity of Contract and Treatment of the non-Combatants

'Alī respected the rights of non-combatants. On one occasion, when 'Alī and his troops passed through a Persian village, the resident *dihqāns* (landlord-farmers) offered to feed the troops. However, 'Alī refused the offer stating that he would only buy what he needed. He warned his troops not to damage the farms while passing.[223] He ordered them, moreover, to wait whenever they needed to take water, until after the owner's flocks have taken water, and to take the services from the local inhabitants only if they fully compensate the owners.[224]

'Alī insisted on respect for the sanctity of agreements in war. When 'Alī's troops neared victory at Ṣiffīn, Mu'āwiya deceived 'Alī's troops by putting five hundred copies of the Qur'ān on spears.[225] He effectively called for arbitration according to the

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[220] See *Ḥadīqat al-Ḥaqīqa* of Sanā'ī (d.525/1131) that is epic poetry about 'Alī's wars. See Charles-Henri de Fouchécour, 1998, p.157.

[221] Al-Minqarī, *Waq'at Ṣiffīn*, 371.

[222] Al-Minqarī, *Waq'at Ṣiffīn*, 607.

[223] Al-Minqarī, *Waq'at Ṣiffīn*, 200.

[224] Ya'qūb, *Tārikh-e Ya'qūbī*, vol. 2, 200.

[225] Al-Minqari, *Waq'at Ṣiffīn*, 657.

scripture.[226] After some negotiation, the arbitration was left to two representatives, one from each side, whose verdict was to be binding and final. Tired of the prolonged battle, 'Alī's troops forced him to accept the arbitration and the choice of Abū Mūsā Ash 'arī as their representative.[227]

Abū Mūsā, however, was easily deceived by Mu'āwiya's representative, the shrewd 'Amr b. al-'Āṣ. In the end, he returned to 'Alī and his troops with a ruling that dismissed 'Alī as caliph. 'Amr, on the other hand, had agreed in private to the removal of Mu'āwiya as a candidate to the caliphate but then disavowed the agreement in public. A number of 'Alī's troops (Kharijites) now turned against him and declared the armistice null and void.

'Alī refused to nullify an armistice which he, albeit reluctantly and under the pressure of these very same critics, was forced to sign. 'Alī based his decision on the Qur'ān's emphasis on the sanctity of contracts.[228] Breaching a contract would be treachery/perfidy even in war (al-ghadr).

In contrast to 'Alī, there are no reports in the Sunnī and Shī'ī sources about Mu'āwiya's observance of ethical conduct. Mu'āwiya's troops initiated the battle.[229] His troops did not receive from him instructions to act moderately on the battlefield and, for the most part, acted without restraint. Mu'āwiya's lieutenants undertook a campaign against cities and villages in order to consolidate his power all over the Arabian lands. They plundered the houses of all those who were believed to be disloyal to the Umayyad regime.[230]

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[226] Al-Minqari, *Waq'at Ṣiffīn*, 596.

[227] According to al-Minqarī (see *Waq'at Ṣiffīn*, 700), 'Alī's preference for a representative in the arbitration was Mālik al-Ashtar.

[228] According to al-Minqari, (*Waq'at Ṣiffīn*), 'Alī's points of reference were Q.5:1 and Q. 16:91.

[229] Al-Minqarī, *Waq'at Ṣiffīn*, 213.

[230] In Ibn A'tham, *Al-Futūḥ*, 714-725, see how Sūfyān Ibn 'Awf, by Mu'āwiya's order, attacked many villages in Iraq, systematically eliminated all the followers of 'Alī, and went about pillaging and plundering. So was the case of another Lieutenant, Busr Ibn Arṭāt, who pursued a policy of murder and plunder in almost all of the major cities of Arabia, including Mecca and Medina.

Ṭabarī, Ibn Athīr, and Ibn Abi'l Ḥadīd report that Muʿāwiya' gave a free hand to his troops to kill and confiscate properties.[231] The army of his son, Yazīd, followed the same policies after the battle of al-Ḥarra during the second civil war. Not only were there massacres that the Prophet's mosque was flooded with blood but, according to Ibn Kathīr, a thousand Medinese women gave birth to kids with unknown fathers.[232]

In contrast to the above, ʿAlī's view of killing the innocent noncombatants (*safk al-dimā'*) as reflected in his letter to Mālik al-Ashtar (ʿAlī's governor in Egypt) points to the gravity of murder without justification. ʿAlī writes:

> You should avoid shedding blood without justification, because nothing is more inviting of divine retribution, greater in (evil) consequence, and more effective in decline of prosperity and cutting short of life than the shedding of blood without justification. On the Day of Judgment Allāh the Glorified, would commence giving His judgment among the people with the cases of bloodshed committed by them. Therefore, do not strengthen your authority by shedding prohibited blood because this will weaken and lower the authority, moreover destroy it and shift it. You cannot offer any excuse before Allāh or before me for willful killing because there must be the question of revenge in it.[233]

Karbalāʾ: Al-Ḥusayn's Call for the Ethics of Liberality

Karbalāʾ, where ʿAlī's second son Ḥusayn Ibn ʿAlī (d. 680 CE), along with seventy two companions and family members were martyred, marks an equally important episode for the moral standards of war in Shīʿī tradition. This episode provides much fruitful material for the discussion of the ethics of the cause of this war (*jus ad bellum*), and the ethics of the manner in which it was conducted (*jus in bello*).

The story of why and how Ḥusayn, the Prophet's grandson, on the eve of Muʿāwiya's death, departed from the Ḥijāz towards Kūfa in order to claim succession, is well covered in the many primary sources. Western orientalists such as Wellhausen and Lammens are unanimous in concluding that the battle at this site was over the control of

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[231] See al-Ṭabarī, *Tārīkh al-Umam,* vol.6, 77, also 'Izzaddīn ibn Athīr, *Al-Kāmil fī al-Tārīkh,* vol.3, translation by Hamidreda Azhīr. (Tehran: Asāṭīr Publications, 2002) 150.

[232] Ibn Kathīr, *Tārīkh al-Bidāya wa'l Nahāya,* vol.8, ed. Ismā 'il al-Baṣrī (Maṭbaʿa al-Saʿāda, 1358 AH) 22.

[233] Raḍī, Sharīf, ed. *Nhjul-Balāgha.* Potomac, (Maryland: Ahlul-Bayt Assembly of America, 1996) 248-9.

the Muslim community. However, what occurred was more than just a show of power and might; indeed, this battle became a symbolic fight between righteousness and illegal appropriation. As Vaglieri maintains:

> There emerges from it (the literature) as a whole and, more important, from the facts themselves, the figure of a man impelled by an ideology (the institution of a régime which would fulfill the demands of the true Islam), convinced that he was in the right, stubbornly determined to achieve his ends, as in general are all religious fanatics, and admired and encouraged by supporters who were also convinced that their cause was just.[234]

As soon as Ḥusayn learnt about the death of Muʿāwiya, he fled Medina, knowing that Muʿāwiya's son Yazīd would soon force important Muslim leaders to give their oath of allegiance (*bayʿa*). Ḥusayn went to Mecca to fulfill his pilgrimage (*ḥajj*) but, before the completion of rituals, accepted the invitation of a large number of his followers to lead the Muslim community. Ḥusayn first sent his cousin, Muslim Ibn ʿAqīl, as an emissary, in order to evaluate the situation. When he informed him of Kūfan promises of protection and assistance, Ḥusayn set off.

Muslim Ibn ʿAqīl and a number of other followers of Ḥusayn, however, were shortly afterwards betrayed and executed. Ḥusayn learned of their fate while en route. He at first wanted to return to the Ḥijāz but was unable. Umayyad troops had already been dispatched by the Kūfan governor Ibn Ziyād. He had ordered ʿUmar Ibn Saʿd Waqqās to encircle Ḥusayn and his followers, and force them to give their oath of allegiance to Yazīd, or face death. Muslim Ibn ʿAqīl's brothers, moreover, wanted revenge against Ibn Ziyād. Ḥusayn was caught between the dishonor of flight and the futility of conflict with Yazīd. Vaglieri describes the outcome:

> When it was repeated to him (Ḥusayn) that first of all he must submit to his cousins (Yazīd), he replied that he would never humiliate himself like a slave... He then dismounted and commanded that his horse should be hobbled, intending by this to signify that he would never flee. Ḥusayn then read to his supporters a proclamation in which, after informing them of the doleful news he had received and of the treachery of the inhabitants of Kūfa, he invited them to leave him... Those who had joined his group

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[234] *The Encyclopaedia of Islam,* new edition, s.v. "Ḥusayn ibn ʿAlī ibn abi Ṭālib" by L. Veccia Vaglieri.

during the journey did depart, and there remained with him only those who had followed him from Ḥijāz.[235]

At this point, there are several important questions about Ḥusayn's motivations. First, was Ḥusayn after political power, and if so, why did he encourage his companions to leave? Why did Ḥusayn risk the lives of about seventy people against an army at least sixty times larger, though those who stayed behind knew their fate? Finally, why didn't Ḥusayn, as a tactical maneuver, accept Yazīd's caliphate, escape and then rebel when he had enough followers to form a real army?

Perhaps the only justified answers are that, first, he took the Kūfan invitation as a political obligation rather than a matter of option. That is why he released a good number of his troops once it became clear that winning in the war was impossible. He refrained to take a false oath of allegiance to Yazīd for he could not break it afterwards, given that perfidy (*al-ghadr* that is unilateral breach of contract with enemy) is forbidden in Islam.

Whatever the answers to these questions, Yazīd had Ḥusayn's family and companions massacred without compunction. On the final day of the fateful encounter, Ḥusayn invited 'Umar Ibn Sa'd's forces to examine the lawfulness of their actions and reminded them of Muḥammad's emphasis on respecting Prophet's family. He also asked to be allowed to make his way to a country which would offer him safe passage.[236] He sought to avoid conflict appealing to his enemy's sense of war ethics and morality.

The following two legendary statements frequently found in Shīʿī literature probably best explains Ḥusayns's motivations:

<div dir="rtl">

لا والله لا اُ عطيهم بيدى اعطاءَ الذليل ولا أفرُ منهم فرار العبيد

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No, I swear to God that I do not give them the hand of the servile
nor do I flee from them like a slave.

<div dir="rtl">

ان كانَ دينُ محمدٍ لم يستقم   الا بقتلى يا سيوفُ خُذينى

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[235] *The Encyclopaedia of Islam,* new edition, s.v. "Ḥusayn ibn 'Alī ibn abi Ṭālib" by L. Veccia Vaglieri.

[236] *The Encyclopaedia of Islam,* new edition, s.v. "Ḥusayn ibn 'Alī ibn abi Ṭālib" by L. Veccia Vaglieri.

If the faith of Muḥammad will not stand straight
but through my slaughter, oh swords take me!

Many Shīʿī and non-Shīʿī historians of Islam hold that Ḥusayn was not left with any other honorable option but to stand and fight. He refused to use tricks to escape an unwanted battle. Ḥusayn, in fact, challenged the legitimacy of the confrontation not only on grounds of Islamic morality but with a common sense of justice. He stated:

"ان لم يكن لكم دينا فكونوا احرارافى دنياكم"

If you lack any faith, be freemen in your life [237]

This appealed to the objective ethics characteristic of the Shīʿite / Mu ʿtazilite principle of 'justice' that will be discussed in the fourth chapter. Ḥusayn registered that one needs not be Muslim to judge about the wrong cause of the conflict.

His appeal had effect. Al-Ḥurr b. Yazīd al-Tamīmī, a commander of Ibn Ziyād who had besieged Ḥusayn and his companions relented and went over to Ḥusayn's side, knowing the cost would be martyrdom. He apologized and asked for Ḥusayn's forgiveness for his previous actions, Ḥusayn gave him his blessing and said: "it was not for nothing that your mother named you Ḥurr (freeman), as you are a freeman here and freeman hereafter."[238] Ḥurr probably remembered that when he had first encountered and laid siege to him, Ḥusayn allowed his horsemen to draw water nearby. In contrast, ʿUmar b, Saʿd denied Ḥusayn and his companions access to water.[239]

The battle at Karbalāʾ raises many moral questions. First, there was asymmetry in the strength of the two sides and in the goals and the inflicted damage. The battle posited an army of approximately four thousand against one of about seventy. The larger force, moreover, did not need to set the tents of women and children afire in order to ensure victory. The high level of savagery perpetrated by Ibn Ziyād, ʿUmar Saʿd and

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[237]This statement is frequently mentioned in many primary sources (i.e. al-Ṭabarī, etc.).

[238]This sentence has become proverbial in Shīʿī literature.

[239]For his extraordinary last-minute heroism, al-Ḥurr's reputation has been revered above all other companions of Ḥusayn in the Shīʿī literature on Karbalāʾ. See *The Encyclopaedia of Islam,* new edition, s.v. "Ḥusayn Ibn ʿAlī Ibn Abī Ṭālib" by L. Veccia Vaglieri.

their troops stands in contrast to the exemplary heroism of Ḥusayn's camp. This then established a standard in Shīʿī ethics of war, side by side with Siffin.

The Moral Impact of Karbalāʾ

The Karbalāʾ massacre undermined the development of moral standards under the Umayyads. Any causality for war (*jus ad bellum*) and methods of conduct in war (*jus in bello*) were subsequently justified arbitrarily by the various courts of the caliphate. Askarī argues that before the Karbalāʾ incident, the caliph's rulings were tantamount to rules of Islam in public opinion. But, afterwards politics and faith were separated.[240] Jurists and scholars began to develop and explicate legal approaches to war based on the Qurʾānic and ḥadīth injunctions. Rarely did a caliph or sulṭān follow those injunctions in his planning and conduct of war.

These historic events, however, bequeathed heroes for subsequent generations. ʿAlī, Ḥusayn, Mālik al-Ashtar, al-Ḥurr, and Zaynab (Ḥusayn's sister) were extolled as paradigms of virtue and morality while Muʾāwīya, Yazīd, Ibn Ziyād, ʿUmar Saʿd, Shimr Ibn Dhiʾl Jawshan and Khawli B. Yezid (the person who carried Ḥusayn's head to ʿUbaydallāh) became anti-heroes in Shīʿī cosmology. These figures appear frequently in juridical discussions and Persian epic literature. Perhaps the most important impact of the Karbalāʾ tragedy on the Shīʿī view regarding war and peace is summarized in the Shīʿī proverbial phrase: *kullu yawmin ʿĀshūrā wa kullu ʿarḍin Karbalāʾ* (و كل يوم عاشورا - كل ارض كربلاء[241] all days are *ʿĀshūrā*[241] and all lands are Karbalāʾ). By this slogan, that appeared long after the incident, the Shīʿī worldview provided an alternative to a world view that since the eight century became the standard for the majority Sunnī Muslims namely the division of world into the abode of peace and the abode of war (*dār al-Islam* and *dār al-ḥarb*). Alternately the Shīʿī view saw the essential divisive line in the world to go not only between the believers and non-believers, but to go as well through the

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[240] ʿAskari, *The Martyr of the Revival*, 94.

[241] 10th of *Muḥarram*, the first month of Arabic calendar when Ḥusayn was martyred.

Muslim world itself. In other words a Muslim could be conceived far less friendly than a non-believer.[242]

Jihād in the Mirror of Shī'ī Ḥadīth

The tragedy of Karbalā' permanently changed the political outlook of the Shī'ite leadership in the caliphate. This was reflected in the body of Shī'ī ḥadīth that mostly originated from or was linked to the founder of the Twelver Shī'ī school of law, Ja'far al-Ṣādiq (d. 148/765).[243] The most authoritative collection of these ḥadīth, *Wasā'il al-Shī 'a ilā Taḥṣīl Masā'il al-Sharī'a*,[244] divides its treatment of jihād (*kitāb al-jihād*) into two sections, one on jihād against the enemy and the other on jihād against the carnal soul (*al-nafs*).[245] A closer analysis of the content of the section on 'jihād against the enemy' shows that the ḥadīth collection discourages rather than encourages armed struggle.

With the exception of defensive war, which is an obligation incumbent upon all, armed struggle or armed jihād strictly requires the permission of the 'just authority' or Imām. The great bulk of the ḥadīth narrated from Ja'far al-Ṣādiq in the 'Book of Jihād,' in fact, emphatically limits the possibility of rebellion even against illegitimate rulers.

In this collection of ḥadīth, al-Ṣādiq makes a statement which appears to oppose jihād as it was understood and practiced in the day. al-Ṣādiq questions 'Abdul Malik Ibn 'Amr, "O 'Abdu'l Malik, I do not see you to have left for war in the regions your fellow

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[242] For the full story of al-Ḥusayn's tragedy as narrated by al-Ṭabarī see Gerard, Chaliand. Ed. *The Art of War in World History*, (Berekly, Los Angeles, London: University of California Press, 1994) 395-399.

[243] Al-Ṣādiq is known in the ḥadīth literature by the epithet Abā 'Abd Allāh.

[244] The most important contemporary source for Twelver Shī'ī law is *Wasā'il al-Shī 'a ilā Taḥṣīl Masā'il al-Sharī'a* written by Muḥammad Ibn al-Ḥasan al-Ḥurr al-'Āmili (d.1104 AH). This source is inclusive of the four original sources of Shī'ite jurisprudence, namely: *al-Kāfī* by Muḥammad Ibn Ya 'qub Kulainī (d. 329 CE), *Man lā Yaḥḍuruhu'l-Faqīh* by Muḥammad Ibn 'Alī Ibn Babawayh Qummī (known as Shaykh Ṣadūq) (d. 381 CE), *Tahdhīb al-Aḥkām* and *al-Istibṣār* by Muḥammad Ibn Ḥassan al-Ṭūsī (Known as Shaykh al-Ṭā'ifa) (d. 460).

[245] Muḥammad Ibn al-Ḥasan al-Ḥurr al-'Āmili, *Wasā'il al-Shī 'a ilā Taḥṣīl Masā'il al-Sharī'a*, vol.6, ed. Shaykh Muḥmmad Shīrāzī (Beiruit: Dār Iḥyā' at-Turāth al- 'Arabī, 1382 AH).

countrymen have left for," asked al-Ṣādiq. ‘Abdu'l Malik responded. "Where do you mean?" He replied "Jiddah, 'Ubbādān, al-Maṣīṣa, and Qazwīn." "I responded," ‘Abdu'l Malik relates, "I have waited for your command and your leadership." al-Ṣādiq answered, "yes, indeed, I swear to God we would have been ahead of them (the warriors who already left for jihād) if I saw any good in that venture."[246]

Muḥammad Ibn ‘Alī al-Bāqir (the Fifth Shī‘ite Imām) states: "I do not know in this era any jihād other than the greater and the lesser pilgrimage (*hajj* and *'umra*), and protecting one's neighbor (*al-jiwār*)."[247]

Al-Ṣādiq quotes ‘Alī Ibn Abī Ṭālib to have said:

> A Muslim will not go for jihād with those who do not believe in the rules and (who) fail to implement God's command regarding the booty....such a person, once he dies in this place (battlefield), dies as a supporter of our enemy in the imprisonment of our rights, in the shedding of our blood, and therefore his death is a *jāhilī* (pre-Islamic Arab culture) death (i.e. of no value or reward).[248]

The above piece clearly means that the quality of jihād (*jus in bello*) is inseparable from its cause (*jus ad bellum*). In other words, by virtue of the above injunction, an illegitimate conduct in a war will affect the legitimacy of its cause.

‘Alī Ibn al-Ḥusayn (the Shī‘ite's Fourth Imām) responds to a critic who has wondered why he went on pilgrimage instead of jihād, citing the Qur’ānic verse Q.9:111, 249. ‘Alī asks his critic to read the verse Q.9:112, which sets the necessary

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[246] al-‘Āmilī, *Wasā’il al-Shī‘a*, 32.

[247] al-‘Āmilī, *Wasā’il al-Shī‘a*, 33.

[248] al-‘Āmilī, *Wasā’il al-Shī‘a*, 33.

[249] The verse 111 of the *sura at-Tawba* (*Repentence*) reads, "Lo! Allāh hath bought from the believers their lives and their wealth because the Garden (heaven) will be theirs: they shall fight in the way of Allāh and shall slay and be slain. It is a promise which is binding on Him in the Torah and the Gospel and the Qur'ān. Who fulflleth his covenant better than Allāh? Rejoice then in your bargain that ye have made, for that is the supreme triumph." Marmaduke Pickthall, *The Meaning of the Glorious Qur'ān* (Tehran: Entesharat Salehi, n.d.).

qualities for jihād warriors,[250] and reminds him that, without those qualities, jihād loses its legitimacy.[251]

Several ḥadīth deal with the appropriateness of waging war in the time of the occulted Twelfth Imam (al-Qā'im). Among them, 'Alī Ibn al-Ḥusayn is quoted as saying: "I swear to God that none of us will come out before the coming out (*khurūj*) of al-Qā'im, or else it will be like a newly born chicken just out of its shell that will be taken by kids as a plaything before it can develop its wings."[252]

Another ḥadīth takes even a stronger tone limiting war in the absence of al-Qā'im. It quotes al-Ṣādiq saying that "one who bears all the flags (of jihād) that are raised before the coming out of al-Qā'im, their bearer, is a false deity (*ṭāqūt*) who serves other than God the most Powerful, the Magnificent."[253]

The bulk of ḥadīth in Shī'ī sources emphasize two essential points: first, short of the leadership of a just ruler, jihād loses all its justification and religious sanctity with the exception of purely defensive war. Second, jihād campaigns under the Umayyads and the Abbasids had mainly worldly or false motivations. Shī'ī authorities discouraged any attempt by their followers to seize political power.

In addition to the political categories of the abode of covenant (*dār al-'ahd*) and the 'abode of Islam,' Shī'ī ḥadīth adds the term, the abode of prevarication (*dār al-taqiyya*). This term reflects the circumstances of a minority Muslim community living in a non-Muslim state or, given its precarious situation, the Shī'ī minority within the Islamic state or the 'abode of peace' as well.

In one ḥadīth, 'Alī Ibn Mūsā al-Riḍā (the Eighth Shī'ite Imām) writes to the Abbasid caliph al-Ma'mūn:

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[250] Verse 112 of the *sura at-Towba* (*Repentence*) reads, "(triumphant) are those who turn repentant (to Allāh), those who serve (Him), those who praise (Him), those who fast, those who bow down, those who fall prostrate (in worship), those who enjoin the right and those who forbid the wrong and those who keep the limits (ordained) of Allāh- And give glad tidings to believers." Pickthall, *The Meaning of The Glorious Qur'ān*.

[251] al-'Āmilī, *Wasā'il al-Shī'a*, 34.

[252] al-'Āmilī, *Wasā'il al-Shī'a*, 36.

[253] al-'Āmilī, *Wasā'il al-Shī'a*, 37.

...And jihad under a just Imam is obligatory (*wajib*), also whoever is killed while defending himself in travel, his life, and his property, is considered a martyr (*shahid*). It is forbidden (*haram*) to kill any infidel in the abode of prevarication (*dar al-taqiya*), except in retaliating a murder or opposing an insurgent (*baghi*), and these latter measures may be taken only in case one's own life is not at risk . . . it is also forbidden to take any property of one's opponents or others; and concealing one's belief in the abode of prevarication is obligatory...[254]

The above hadith not only reflects the Shi'i rulings on the codes of conduct for the minority Shi'i Muslims, but also shows, unequivocally, the very restrictive nature of the use of force in Shi'i legal and ethical opinions. The only justifiable reason to fight an infidel is not his disbelief; rather it is his actions against basic human rights, such as the right to life, property, free passage, right to free choice of dwelling and security.

At a time when warfare in the name of jihad but for worldly gains was quite popular, the Shi'i authorities were at pains to disassociate the term jihad from general warfare. The latter part of the 'Book of Jihad' in *Wasa'il al-Shi 'a ila Tahsil Masa'il al-Shari'a* – where it discusses the jihad against the carnal soul - is twice as large as the former. It is clear that the Shi'i jurist considered his own soul as potentially a much more dangerous enemy than the forces of infidelity threatening him from outside.[255]

This view matches the political realities of the Islamic state, as the minority Shi 'ites faced systematic oppression and persecution by their fellow Muslims, the other part of their ideological self. Each of the first eleven Imams were imprisoned, poisoned, or martyred. The ideological 'self,' as an extension of the 'carnal self,' was in reality a more significant enemy than the infidel 'other.'

The work, nevertheless, regulates warfare with the enemy "other." As part of this emphasis on the enemy 'other,' Chapters Sixteen to Twenty-Four discuss the grounds for *jus in bello*, or proper conduct of war. They emphasize the sanctity of covenants (*'ahd, 'aqd, mithaq*), respect for amnesty (*aman*) given to the enemy in combat, the equal position of all ranks of Muslim combatants to give amnesty, the

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[254] al-'Amili, *Wasa'il al-Shi 'a*, 35.

[255] This reflects the Platonic sense of the inner enemy.

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prohibition of the use of poison (*samm*), the prohibition of initiation of battle, the prohibition of attacking the elderly, women, children and the disabled of all faiths, the ban on night attacks, and above all, the absolute ban on resorting to perfidy or treachery (*al-ghadr*). They distinguish between treachery/perfidy (*al-ghadr*) which is absolutely forbidden (for it involves unilateral breach of a contract or treaty) and ruse (*al-khud ‘a*)- that is tantamount to tactical deceit of the enemy- which is discussed in Chapter Fifty-two, as form of war itself (*al-ḥarbu khud ‘a*). [256]

Chapter Twenty-Seven deals with the proportionality of forces. According to several ḥadīth, once enemy forces are more than twice the Muslim fighters, escaping the battle is permitted. This Chapter provides an indirect opposition against foreseeable martyrdom. It draws a clear line between suicidal missions and an obligatory defense. Elsewhere, the Book of jihād emphasizes that while a Muslim must not initiate a battle, he should not escape from a battle as well unless, as the above ḥadīth showed the force proportion is more than two against one.[257]

Finally, Chapter Sixty-Seven condemns any clash between Muslims. A Prophetic ḥadīth asserts that in case two Muslims should clash without justification, both the murdered and the murderer will end up in hell.[258]

The ḥadīth in Chapters Twenty-Four to Twenty-Seven suggest that Shī‘ī authorities had difficulty explaining to their followers why ‘Alī Ibn Abī Ṭālib treated his domestic enemies leniently. In response to their doubts and questions, the authorities argue that it was exactly because of his leniency that subsequent enemies of the Shī‘ites have tolerated them so far.

Some questions ask why ‘Alī was more lenient towards the enemy fighters in the battles of Jamal and Nahrawān than Ṣiffīn. In response, the authorities explain that, in

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[256] al-‘Amilī, *Wasā’il al-Shī ‘a*, 102. It is important to note that according to Mohaqqeq-Damad, such a legal distinction between ruse and perfdy, i.e. acceptance of the former and rejection of the latter is stipulated in the Hague Convention of 1907 and other modern international protocols. See Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 405.

[257] al-‘Amilī, *Wasā’il al-Shī ‘a*, 63-4.

[258] al-‘Amilī, *Wasā’il al-Shī ‘a*, 113.

the former cases 'Alī was cognizant, that the remnant of the enemy forces did not have any center to regroup around it and would not pose a threat again. In the Ṣiffīn, however, Mu'āwiya had a solid base of power and could regroup his defeated forces.[259] This suggests some latitude in the authority of the just ruler to adjust his prosecution of a war according to its peculiar circumstances.

However, next to such propositions, there are systematic and emphatic stresses that short of the presence and the command of a just authority, none of the combatants may take an arbitrary measure of such nature in war. Between the lines, it is easily discernable that many of the Shī'ites of the 8th and 9th centuries (2nd and 3rd centuries AH), given their precarious situation and frustrations as a minority, believed that had 'Alī treated his various insurgent enemies[260] with stronger measures and had he uprooted them more effectively than he did, perhaps the following generations of the Shī'ites did not have to live under the difficult circumstances that they did.

Ḥadīth Five and Seven of Chapter Twenty-Five show how 'Alī resisted pressure from his troops to seize and distribute booty after the battle of the Camel. 'Alī ordered all property to be returned to its owners. When some soldiers protested, he replied, "Who will take Umm al-Mū'minīn (the Prophet's wife 'Āyisha, who was on the defeated side) as his share!?"[261]

Other ḥadīth suggest that the Imām al-Qā'im will be less lenient when he reappears on earth. While 'Alī feared harsh retaliation by his enemies against his community in the future, al-Qā'im will have no such concern.[262]

The ḥadīth literature demonstrates the mounting frustration of Shī'īs over the first few centuries. Statements about al-Qā'im's inflexible manner in dealing with his enemies, no matter when he might reappear, were probably reassuring to the oppressed Shī'ites.

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[259] al-'Āmilī, *Wasā'il al-Shī'a*, 56.

[260] Mainly, his enemies in the Jamal, Ṣiffīn, and Nahrawān wars.

[261] al-'Āmilī, *Wasā'il al-Shī'a*, 58-9.

[262] al-'Āmilī, *Wasā'il al-Shī'a*, 57.

Chapter Forty-Nine confirms the legitimacy of Zoroastrianism (*al-majūs*) as an authentic divine religion. This is important in view of the lack of any Qur'ānic mention about this religion.[263] It is by virtue of these hadīth that Zoroastrians attain the protected status of 'people of the book', (*ahlu'l kitāb* or *dhimmī*). They must only pay a poll tax (*jizya*) if they choose not to convert to Islam.

Chapters Twenty-Three, Twenty-Four, and Thirty-Two discuss the treatment of prisoners of war, specifically the obligations of the Islamic state to feed them well, even if they are to be executed the following day.[264]

Perhaps the real spirit of the Shī'ī authorities' endeavor to contain their constituencies' predilection for primary (offensive) war as a shortcut to paradise or wealth could be found between two specific Prophetic hadīths mentioned under the title of this chapter and in footnote 165. The first one praises peacemaking to be more important than obligatory prayers and the second one diminishes the value of jihād to be below the non-obligatory supplications (*dhikr*).

Modern Shī'ī Jurists on War: Between Apology and Critique

Among the contemporary Shī'ī jurists who have written major treatise on jihād, Muṭahharī (d.1979 CE) and Ṣāliḥī-Najafābādī (d. 2006 CE) are most prominent. Also Ṭabāṭabā'ī, the most influential contemporary Shī'ī exegete and philosopher (d.1985 CE), while produced no separate treaty on jihād, he nevertheless presented important views on the subject. So are the views of Kadīvar, a reformist jurist on Islam and human rights, important for their implications regarding causes of discrimination, enmity and conflict in the Islamic and the Shī'ī theology. Most recently Iskandarī and Moḥaqqiq-Dāmād have written important treaties on laws of war in Islam that will be discussed for their significance. In the following section the views of all six scholars will be briefly discussed.

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[263] al-'Āmilī, *Wasā'il al-Shī 'a*, 96.

[264] al-'Āmilī, *Wasā'il al-Shī 'a*, 68.

Ṭabāṭabāʾī: Against the Early Caliphal Conquests

While justifying all Prophetic campaigns, Ṭabāṭabāʾī rejected the expansionist policies of the Prophet's successors. This, he did on the account that, they spent all the energies of the early Muslim society on war and material gains rather than on spiritual development.[265] He denied that such expansionist policies (at the level of *jus ad bellum*), were substantially different from those pursued by Alexander the Great or Ginghiz-Khan when it comes to war motives. "If Islam had sanctioned expansionism," he contends, "it was for the implementation of righteousness, social justice, and the spiritual education of people, rather than to establish Persian-like or Roman-like empires, slavery, collection of booty, and unlimitedly adding to the court treasures."[266]

Ṭabāṭabāʾī maintained that the basis of the Prophet's decision-making on matters of war and peace had nothing to do with revelation but was of consultative nature.[267] Note must be taken that all the Qur'ānic verses that rebuke the pacifism attributed to some of the Prophet's companions, criticize their reluctance to join those campaigns that were already decided upon through consultation. In other words there were no prophetic campaigns merely initiated either by Prophet's decree or a Scriptural injunction.

Ṭabāṭabāʾī, stressed that according to the Qur'ānic verses Q.2:212[268] and Q.3: 64,[269] the primary function of all the prophets and their scriptures was conflict

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[265] Mohammad Ḥusayn, Ṭabāṭabāʾī, *Shī ʿah: Les Entretien et les Correspondances de Professeur Henry Corbin avec ʿAllāmah Ṭabāṭabāʾī (Persian)*, 4th ed. (Tehran: Muʾassese Pazhuheshi Hekmat wa Falsafeh Iran, 1383/1984 CE) 220.

[266] Ṭabāṭabāʾī, *Shī ʿah*, 1383/1984 CE, 220-21.

[267] Mohammad Ḥusayn, Ṭabāṭabāʾī, *Shī ʿa*, (1984) 212.

[268] Q.2:213: "Mankind was one community; then Allāh sent the prophets as bringers of good tidings and warners and sent down with them the Scripture in truth to judge between the people concerning that in which they differed...).

[269] Q.3:64: "Say, "O People of the scripture, come to a word that is equitable between us and you-that we will not worship except Allāh and not worship except Allāh and not associate anything with Him and take one another as lords instead of Allāh." But if they turn away, then say, "Bear witness that we are Muslims (submitting to Him)."

resolution.[270] He finds it astonishing that from about twelve thousand Prophetic companions who outlived him for many decades, only five hundred ḥadīths were left in connection to the very important matters of jurisprudence (one ḥadīth per twenty four companions). This, Ṭabāṭabāʾī believes, was because the Umayyads, for the obvious political benefits, banned the accumulation of the much-needed jurisprudential ḥadīth while rewarding all traditions that promoted the personal images of the first three caliphs against the image of the fourth.[271] Early on, therefore, the personal dispositions of specific political figures overshadowed matters of principle. As a result all the war policies of the first three caliphs were justified and left without criticism.

He points that, importantly all the Shīʿī Imams had discursive and philosophical approaches in their world views. This helped the Shīʿī theology to be critical, rational, and selective in distinguishing the moral right from the wrong while dealing with the heavy mix of the unscrupulously accumulated traditions.[272]

As the previous chapter showed, while Ṭabāṭabāʾī was quite candid and bold in criticizing the Islamic traditions at the level of war causes (*jus ad bellum*) and the general war policies of the early caliphs, he did not add much, on the qualities of war (*jus in bello*), to what his medieval predecessors discussed.

Muṭahharī: The Theory of Liberating Jihād, or Moral Interventionism

Murtaḍa Muṭahharī (d.1979), one of the most erudite Shīʿī jurists of the late twentieth century and a student of Ṭabāṭabāʾī, formulated the philosophy of jihād in a whole new language. Muṭahharī has tried to treat wars of early Muslims in their connection to the Scriptural references to armed struggle (jihād), and justify them in the context of modern discourse. As a student and commentator of Ṭabāṭabāʾī, Muṭahharī was highly impressed by his mentor, although, from time to time, did not fail to criticize his philosophical views. Instead of dwelling on classical and medieval juristic sources, he

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[270] Mohammad Ḥusayn, Ṭabāṭabāʾī, *Shīʿa,* (1984) 85, 155.

[271] Mohammad Ḥusayn, Ṭabāṭabāʾī, *Shīʿa,* (1984) 227.

[272] Mohammad Ḥusayn, Ṭabāṭabāʾī, *Shīʿa,* (1984) 103.

discussed the scripture directly and tried to establish the meaning of jihād through his own exegesis. After citing Q. 2:251, "and if God had not repelled some men by others, the earth would have been corrupted..." and Q.22:40, "...for had it not been for God's repelling some men by means of others, cloisters and churches and oratories and mosques, wherein the name of God is mentioned often, would surely have been pulled down..." Muṭahharī adopts a consequentialist view of war: "War that is transgression," he asserts, "is utterly bad, while war that means standing erect in the face of transgression is utterly good and is one of the necessities of human life." He continues to state that, "the existence of armed forces, the duty of which is to prevent aggression, is an absolute necessity."[273]

Like most modern Sunnī scholars, Muṭahharī avoids matters of the conduct of war *(jus in bello)* altogether and primarily develops new insights into the causes of war *(jus ad bellum)*. He enumerates here a number of legitimate reasons for jihād: first, giving assistance through war to oppressed people, with or without the oppressed having requested the intervention. Muṭahharī contends "it is permissible or moreover obligatory for us to render aid to the oppressed regardless of whether they apply to us for help." Many of the wars of early Islam, according to Muṭahharī, were fought for this very reason.[274]

Another legitimate cause for Muṭahharī is the removal of political obstacles (i.e. regimes) to the propagation and spread of Islam or in other words, fighting in favor of the people that, in Muslim opinion, are isolated from the call of truth and against regimes that suppress freedom of speech. [275] Defensive wars like the defense of life, wealth, property, and land, of independence, and of principles are all legitimate.[276] However, the defense of human rights, Muṭahharī places above the defense of individuals: "There exists something superior to the rights of individual or nation," he

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[273] Muṭahharī, "Jihād in the Qur'ān," 88.

[274] Muṭahharī, "Jihād in the Qur'ān," 97.

[275] Muṭahharī, "Jihād in the Qur'ān," 97.

[276] Muṭahharī, "Jihād in the Qur'ān," 104.

stresses, "something more sacred, the defense of which in accordance with the human conscience is higher than the defense of individual rights. And that something is the rights of humanity."[277] He continues, "No one should have any doubts that the most sacred form of jihād and war is that which is fought in defense of humanity and international interventionist policies to promote human rights."[278]

Finally, the last of Muṭahharī's legitimate causes of war (jihād) goes beyond any notion of defense; he supports a policy of moral expansionism. He explains, "...there is a possibility that one fights not for the sake of aggression, nor in defense of oneself or a human value, but for the expansion of human values."[279] Muṭahharī's view of the freedom of belief is a novel expression. He is, however, candidly against the freedom of any belief which is not rooted in thought (an unthoughtful belief).[280]

These principles set down by Muṭahharī approach by implication a moral hegemonism. Of course none of his five categories of justified wars are void of moral motives. Muṭahharī's justification of war (jihād) for the expansion of human values resembles many of the positions of politicians and some of the modern political philosophers in the West, especially their call for the proactive global expansion of democracy and human rights.

Muṭahharī's view of the instrumentality of war renders war legitimate in many different situations. He ignores to discuss the vast tradition of ethics and laws in the conduct of war (*jus in bello*). Such shortfall may lead to broad toleration of, and uncritical stance towards various methods by which war is conducted. Moreover, his view lacks elaboration on the mechanisms of decision making on war. In theory, as already mentioned and by implication, he rejects the democracy of the ignorant society that, in his opinion, may justly be invaded in order to be informed about truth, humanity and human rights. But notions such as 'truth,' 'humanity' and 'human rights' if not

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[277] Muṭahharī, "Jihād in the Qur'ān," 104.

[278] Muṭahharī, "Jihād in the Qur'ān," 105.

[279] Muṭahharī, "Jihād in the Qur'ān," 103.

[280] Muṭahharī, "Jihād in the Qur'ān," 113.

highly speculative in the age of hermeneutics, are presently very expansive and dynamic. One may easily face, even in a specific Islamic society, questions such as 'whose truth' and 'whose definition of humanity and human rights?' Muṭahharī also leaves traditional views of Muslim jurists on war without fundamental criticism, and therefore leaves them valid from a fundamentalist perspective. His stress, however, on the essentiality of 'humanity,' and 'human rights' in any given society brings him close to the objective Mu'tazilī ethics (discussed in chapter four) and modern international law that is in contradistinction with the traditional duty-based Islamic jurisprudence.

Iskandarī: Retaliation (*qiṣāṣ*), the Prime Cause of War in Islam

Among the modern Shī'ī critics of the traditional Islam law and jurisprudence on war, Iskandarī has come to a new conclusion: The prime or perhaps the sole legitimate cause of war in Islam is the principle of 'retaliation' or *qiṣāṣ*. *Qiṣāṣ* is traditionally considered a code of penal law (*ḥuqūq al-jazā'*). It is a legal punitive code applied to cases of murder or inflicting harm to bodies of private citizens. Iskandarī however extrapolates the philosophical foundation of this firmly rooted code in the Qur'ān and extends it to cover laws of war. For him, there is little or no essential difference between murder, that is small scale violence and war that is the same thing only in a larger and collective scale. A legitimate war for him is only a retaliation-in-kind (*muqābila bi'l mithl*), and therefore defensive by definition.

After Iskandarī reminds his reader that the penal law of *qiṣāṣ* has been among one of the most controversial questions for the classical jurisprudence, he concludes that, according to the Qur'ānic verses, *qiṣāṣ* or 'retaliation,' is only a 'right' (*ḥaqq*) and not an obligatory duty (*taklīf wājib*) because the Qur'ān unequivocally calls upon those who are entitled to this right to forgive and settle the case in other forms -by financial compensation (*diya*) or total forgiveness (*'afw*).

By implication, Iskandarī comes to the conclusion that war as a retaliation-in-kind is only an option (not a duty) for the Muslim community which may preferably seek other peaceful ways of settlement as a measure of retaliation or defense.

Through an exhaustive examination of the controvertial juridical views of both Shi'i and Sunni scholars on *qiṣāṣ*, Iskandari refers to various sorts of limitation in the implementation of this law. He points, for example, to the views of various jurists on the following key Qur'ānic verses on retaliation:

> Q.5:45, "And we prescribed for them therin: The life for the life, and the eye for the eye, and the nose for the nose, and the ear for the ear, and the tooth for the tooth, and for wounds retaliation; but whosoever forgoes it, it shall be an expiation for him; and whoever did not judge by what Allah revealed, those are they that are the unjust."

> Q.2:178, "O you who believe! Retaliation is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female. And for him who is forgiven some what by his (injured) brother procecution according to usage and payment to him in kindness. This is alleviation and a mercy from your Lord. He who transgresses after this will have a painful chastisement."

> Q.2: 179, "And there is life for you in retaliation, O men of understanding, that you may ward off."

> Q.42: 40, "And the recompense of evil is evil the like of it; but whose pardons and puts things righ (settles the case), his wage (compensation) falls on Allāh; surely He loves not the evildoers."

> Q.16:126, "And if you chastise, chastise in kind; but assuredly if you are patient, it is better for those patient."

> Q.2: 194, "The holy month for the holy month, and forbidden things in retaliation; and one who attacks you, attack him in kind as he attacked you. Observe your duty to Allāh and know that Allāh is with those who ward off (evil)."

> Q.2: 190, "And fight in the way Allāh with those who fight with you, but do not transgress. Surely Allāh does not love those who exceed the limits."

According to Iskandari, while the law of 'reataliation-in-kind' was clear on certain physical injuries like the loss of an eye, ear or other members of body, jurists of various schools of law could not agree on other injuries or methods of retaliation. He refers to an examplary classical case wherin a man killed another by beating him to death with his cane and thus by torture. The case was then presented to various jurists to determin measures of retaliation-in-kind (*qiṣāṣ*).

According to two ḥadīth cited by Iskandari, al-Ṣādiq ruled that the murderer must be delivered to the family of the murdered, but they can not execute him like-wise by turture and enjoy watching him suffer, rather, the execution must be simple and by

sword.[281] All the Shī ʿī jurists, following the above ruling, according to Iskandarī have come to the same conclusion about the limits of the law of 'retaliation-in-kind.' While some of the Sunnī schools have come to the same conclusion, jurists like al-Shafiʿī have stressed on retaliation-in-kind without much limits. Iskandarī criticizes the contemporary Sunnī exegete Mohammad Rashīd Redā who, based on the above ruling of al-Shāfiʿī, came to the following conclusion about war:

> ...I add to the ruling (of al-Shāfiʿī) that in war too, retaliation-in-kind must be strictly observed exactly as in the case of murder. Therefore, whenever the enemy fights the Muslim forces by canon, fire weapons, or chemical warfare, they (Muslims) must retaliate by the same means; or else jihād will loose its function that is on the one hand, the prohibition of operession, sedition, hostility and aggression, and on the other hand the establishment of freedom, security, justice, and doing good.[282]

Ekandarī rejects such conclusion and stresses that the Qur'ānic concept of 'retaliation-in-kind' when applied to war refers to the domain of action rather than its exact manners. In other words, the application is war for war and not chemical weapons for chemical weapons. What if a person or a group would commit acts of raping women or men, be it in war or peace, he asks? Obviously retaliation-in-kind here, Iskandarī contends, does not make sense as much as it is ridiculous if someone says to the murderer of his brother that: "Now that you have killed my brother, I will kill yours."[283]

Iskandarī concludes that no act of 'retaliation-in-kind' may inflict damage on an innocent third party, thus he categorically rejects the use of weapons of mass distruction by Muslims because indiscriminate killing has no legal or moral basis in *shariʿa*.

By referring to Q. 16:126, Iskandarī reminds his reader that this verse (cited above) was revelated when the Prophet visited the mutilated body of his beloved uncle Ḥamza, during the battle of Uḥud, and stricken by deep sorrow and anger vowed to kill

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[281] The two ḥadīth are narrated by Muhammad ibn Ya ʿqūb and Muhammad ibn ʿAlī al-Husayn. See Moḥammad Ḥoseyn Iskandarī, *Qā ʿedeye Moqābele be Methl dar Ḥoqūqe Beyn al-Melal az Dide Islām* (*Retaliation Rule in International Law from Islam's Viewpoint*), (Qum: The Center of Publication, The Islamic Seminary of Qum: 1379/1991) 157.

[282] Paraphrased by Iskandarī from Muḥammad Rashid Riḍā's Qur'ānic exegesis *al-Minār*. See Iskandarī, Qum: 1379/1991, 139.

[283] Iskandarī, Qum: 1379/1991, 155.

in retaliation seventy of the Meccan polytheists of the Quraish tribe. The verse consequently reminded him that he can not go beyond a proportional measure, and that if he exercises patience instead, it would be more proper for him. Iskandarī concludes, on the basis of the incident and the related verse, that the term 'retaliation-in-kind' is not 'similarity of the reaction,' as some jurists have concluded; and that proportionality of damage to the enemy is a solid law of war in Islam.[284]

On the above basis, Iskandarī comes to some conclusions that by implication are important for ethics and laws of war in both domains of cause of war and quality of war (*jus in bellum* and *jus ad bello*). He maintains that because *sharī'a* is quite sensitive about the limits of 'retaliation-in-kind,' all such measures at the personal or collective levels (civilian or international relations) must be decided by the state. He cites a ḥadīth by al-Bāqir (the fifth Shī'ite Imam) saying that all measures of retaliation or *qiṣāṣ* not approved by Imam (state's legitimate authority) must be penalized.[285]

In Iskandarī view another factor that limits both the scope and the quality of the 'retaliation-in-kind,' is the conventional norms ('*urf*) of various societies and historical plains. For example, once slavory becomes universally an obsolete practice, it can not be applied to prisoners of war in the hand of Muslim forces.[286]

He rejects the political dichotomy of abode of peace and abode of war known as *dār al-Islam* and *dār al-ḥarb*, that appeared in the Islamic political and juridical literatures of eight century CE, and maintains that even if one would accept such a classification of the world into the two domains, there is no reason to see that the only relationship defined between the two parts of the world is limited to the state of war.[287]In his view, the basis for international hostility in Islam is act of war and aggression rather than disbelief.[288]

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[284] Iskandarī, Qum: 1379/1991CE, 98, 147.

[285] Iskandarī, Qum: 1379/1991CE, 163, 164.

[286] Iskandarī, Qum: 1379/1991CE, 281.

[287] Iskandarī, Qum: 1379/1991CE, 175.

[288] Iskandarī, Qum: 1379/1991CE, 233.

However bold in his views on various aspects of 'retaliation-in-kind,' its application to war and its limitations, Iskandarī fails to address a vague point in the views of most classical and contemporary jurist on war. That is the question of the real difference between jihād and diffense and why most jurists treat these terms separately rather than inclusively (jihād includes the notion of defense as reflected in the previous chapter).[289]

Moḥaqqiq-Dāmād: The Immunity of Noncombatant, Nonbeliever

Most recently, Moḥaqqiq-Dāmād has written an elaborate treatise under the title of protection of Individuals in times of armed conflict under international and Islamic laws. The scope of his work however, vastly covers many areas of both *jus ad bellum and jus in bello*.[290] Most impressive in this work is the comparative analyses through which he puts the entire body of the Islamic traditions on *jus in bello* into the context of modern humanitarian international law.

As for the legitimate causes of war in Islam, Moḥaqqiq-Dāmād emphatically asserts that, "All Mālikī and Ḥanafī, most Shāfiʿī and Ḥanbalī and many Imāmī (Shīʿī) *faqīhs* (jurists) have expressed the view that the purpose of jihād and war is to keep the enemy's bellicosity at bay." "Thus," he concludes, "war must be waged with the enemy for his aggression against Muslims and Islam, not that he must be killed because he is infidel."[291]

According to this author, killing for alternative belief system is forbidden in Islam simply because, "killing non-belligerent citizens is prohibited in the law (*sharīʿa*)." By pointing to the unequivocal Prophetic order to save many categories of civilians in war including women, elderly, and children, Moḥaqqiq further points, "Had

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[289] See Iskandarī, Qum: 1379/1991CE, 213.

[290] Moṣṭafā, Moḥaqqiq-Dāmād. *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (New York: Global Scholarly Publications, 2005).

[291]Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 91.

merely being a non-believer been justification for death, any non-Muslim individual would have had to be killed."[292]

The author points that an opposite view has been reported from some followers of the Shāfiᶜī, Shīᶜī, and Ẓāhirī schools to the effect that the cause of fighting in Islam is infidelity. He Adds, "In certain works, Shāfiᶜī has preferred this opinion."[293] "Proponents of this view also authorize the killing of the elderly, children, the blind and the invalid."[294] Moḥaqqiq, however, asserts that this latter view is a minority view and solely based on a weak ḥadith from a ḥadīth transmitter (Samrat Ibn Jundūb) who lacks high credibility among the jurists, and a wrong interpretation of the Qur'ānic verse Q.9:5.[295]

On the meaning of jihād, the author concludes, "Taking into careful consideration the definition of jihād in the Islamic law and war in the international law, it becomes clear that, in both cases, jihād and war take place for public interests of a state, against a foreign enemy." The only difference is that war is for material goals whereas jihād, by definition, must pursue spiritual ends.[296]

As mentioned above, the focal point of Moḥaqqiq is laws in war (*jus in bello*). He observes that most Muslim jurists have categorized the main questions pertaining to *jus in bello* under the following titles: Who should be fought; who should be killed; who should be protected; how a war should be fought, which acts are authorized and which are unauthorized in war; rules of dealing with prisoners of war (*istirqāq*); rules concerning war spoils; rules and conditions concerning the protection of peoples of other

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[292] Moḥaqqiq-Dāmād, (2005) 91, 92.

[293] Moḥaqqiq-Dāmād, (2005) 325. His sources for these minority views are: Ibn Quddāmah, *Mughnī al-Muḥtāj*, vol.4, p.223; Ibn Rushd, *Bidāyat al-Mujtahid*, p.371; Abu'lqāsim al-Khoᶜī, *Minhāj al-Ṣāliḥīn*, vol. I, .296.

[294]Moḥaqqiq-Dāmād, (2005) 92.

[295] Moḥaqqiq-Dāmād, (2005) 92, 93, 325-329. Q.9:5: "And when the sacred months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush. But if they should repent, establish prayer, and give zakāh, let them on their way. Indeed, Allāh is Forgiving and merciful."

[296] Moḥaqqiq-Dāmād, (2005) 96.

faiths (*dhimmī*); rules of poll tax (*jizya*); rules concerning the enemy's buildings and properties after victory; rules concerning peace agreements and amnesty.[297]

Against a minority view in the Shīʿī school who permit the killing of women and children if they take part in war, Moḥaqqiq argues that most Twelver Shīʿī jurists absolutely prohibit such a penalty, "even if they take part or render assistance in wars."[298]

As an important methodology in Islamic law, the author refers to two kinds of 'fixed' and 'changing' laws in Islam. He maintains that some obligatory rites like prayers and fasting belong to the first category, while all laws granting concessions and permissions to Muslims such as ownership and property laws can be subsumed under the second category. Moḥaqqiq asserts that, "...most rules and regulations regarding the Holy war (jihād) in Islam belong to the second (changeable) category, as they do not constitute fixed or invariable rules, but depend upon the discretion of the Islamic state..."[299]

Moḥaqqiq's comparative analyses between the traditional humanitarian laws of war in Islam and the modern international law ends with three general conclusions: First, that Islamic law is highly compatible with many details of the modern international law. Second, that wherever it lags behind, the changeable nature of the Islamic laws of war and the contractual possibilities deeply disciplined and well-versed within the body of the Islamic law enable Muslim states to bridge the gap easily and very legally. Third, that in many fields, the Islamic legal provisions pertaining to war and its conduct, is more progressive than the present modern International law. A case the author presents is the following:

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[297] Moḥaqqiq-Dāmād, (2005) 113.

[298] Moḥaqqiq-Dāmād, (2005) 356. Moḥaqqiq refers to Muḥaqqiq Ḥillī, Shaykh Ṭūsī, Ibn Idris and Mohammad Ḥassan Najafī as the prominent Shīʿī jurists who strongly oppose the killing of women and children. The only exception for Shaykh Ṭūsī is when they (women and children) are used as a shield against Muslim forces in which case they may be targeted. See Moḥaqqiq-Dāmād, (2005) 356.

[299] Moḥaqqiq-Dāmād, (2005) 335, 336.

The regulations of Geneva Conventions pertaining to armed conflict of a non-international nature are less bold (than the Islamic norms) and their guarantees are much weaker than those contained in the provisions pertaining to international armed conflict. The philosophy underlying the division of the Convention provisions on humanitarian law into two protocols is, itself, based on the desire to withhold the greater guarantees from combatants in non-international armed conflict. The Islamic system, on the other hand, takes a diametrically opposite stance. It takes a more sympathetic view of armed conflict with rebels and Khārijites, offering them rules and guarantees that it withholds from polytheists and apostates engaged in international armed conflict.[300]

The problem with the above assertion is that terms such as 'apostates'[301] or 'polytheists' do not carry any negative weight for the modern international law. In the context of a modern and secular international law, one may criticize just any kind of discrimination towards citizens of a state or citizens of the world. From this perspective one may conclude that both the present international humanitarian laws of war and the traditional Islamic law suffer from one or another kind of discrimination. It is in this neutral context that one may address the shortcoming of the present international law in giving protection to domestic dissent.

What however is the strong point of Moḥaqqiq, is that he provides a complete and comparative picture of the Islamic and the modern international humanitarian laws of war and shows how the differences between the two are non-essential and can be bridged with little effort on the part of the modern Muslim jurists. On the other hand the author helps to shows how Muslim states may embrace the present international law of war for it is not merely based on secular premises but on very genuine Islamic traditions as well.

Kadīvar: Against Discrimination in the Traditional Law

The pro-moralist position of Kadīvar will be discussed in the next chapter. It is from a moralist position that he juxtaposes the declaration of human rights with the position of

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[300] Moḥaqqiq-Dāmād, (2005) 395.

[301] Note should be taken that a senior Shīʿī jurist, Husaynali Montaẓerī has recently issued a *fatwā* that denies that mere religious conversion should be penalized according to laws of apstacy. He asserts that the very few apostates that were subject to severe punishment in the early history of Islam were punished for their conspiracy against the state rather than for their conversion. See Ayatollah Montazeri, "*fatwa* on *irtidād* (apostacy)," issued in Feb. 2005.
http://mehdis.com/tablu/modules.php?name=News&file=article&sid=18112

traditional Islamic law on the status of people. He is very candid in declaring that the traditional Islamic law, and specifically the Shī'ī law is highly discriminatory against various categories of people and determines special rights for specific groups such as the clergy (*'ulamā*) versus the layman, man versus woman, Shī 'ite versus Sunnī, Muslim versus non-Muslim, freeman versus slave etc.

Such discriminatory law, Kadīvar argues, is not a part of Islamic morals; rather it is the production of history of Muslims who have mixed various cultural norms in different periods of history with their specific reading of the Scripture and Prophetic traditions. He concludes therefore that, "the traditional reading of Islam is not compatible with norms of democracy or the Declaration of Human Rights."[302]

The only way out for Muslims to embrace modern life, in the view of Kadīvar, is to purify the Islamic tradition from the extraneous cultural elements added to it throughout centuries, or in other words to hold to Islam less its history. In its moral essence, Kadīvar emphasizes, Islam can fully embrace norms of democracy.[303] He declares that the two eternally valid criteria by which one may accept Islam or any other faith are justice and rationality. "Both we and our ancestors," Kadīvar claims, "have converted to, and accepted Islam, because it looks more just, more reasonable, and overall more preferable than other faiths." "It is upon the dictates of these very same criteria," Kadīvar concludes, "that I find the Universal Declaration of Human Rights to be preferable to our traditional law when it deals with people's rights."[304]

It is rather obvious that a discriminatory law can be a source and cause of intolerance and conflict both at domestic and international scale. But for Kadīvar and the like-minded an objective sense of justice, reason and agreement on the fact that no moral value can be produced except based on free will and chice, are effective means to contain wars of religions.

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[302] Mohsen Kadīvar, "The Religious Intellectualism," *Āftāb* (82) August/September 2003: 25-40.

[303] Kadīvar, "The Religious Intellectualism," 2003: 25-40.

[304] Kadīvar, "The Religious Intellectualism," 2003: 25-40.

Ṣāliḥī-Najafābādī: A Critique of When Theology Rewrites History

The legal criticism of Niʻmatollāh Ṣāliḥī-Najafābādī (d. 2006 CE) toward both the Sunnī and the Shīʻī traditional views of jihād is candid and ground breaking.[305] He was a senior scholar respected for his bold views some of which will be discussed in this section.[306]

On the *jus ad bellum* plane, He reviews the Karbalāʼ tragedy and provides a whole new reading of that episode with serious implications for the Shīʻī political philosophy. His book on the motives of al-Ḥusayn in his encounter with al-Yazīd, namely *Shahīd-e Jāvīd* (*The Immortal Martyr*)[307] caused a major controversy among the Shīʻī scholars during early 1970s.

There is an ongoing controversy among the Shīʻī scholars about Ḥusayn's ultimate motive in his uprising against al-Yazīd. A majority view held that his move was based on the Islamic principle of 'commanding the right and prohibiting the wrong,' with no political ambition.

The second view, most extensively discussed and supported by Ṣāliḥī-Najafābādī in *Shahīd-e Jāvīd*, is that Ḥusayn really sought to overthrow Yazīd and seize the political power, given the initial support and invitation he had received from a large number of the Kūfans.[308] Ṣāliḥī rejected the commonly held Shīʻī view that al-Ḥusayn's challenge against the Umayyads lacked political motive and was solely a critical campaign against al-Yazīd's corruptive reign based on a duty he (Ḥusayn) felt in response to the invitation. Ṣāliḥī posed against de-politicization of the Karbalāʼ tragedy and denied that Ḥusayn had knowledge, in advance, about the timing of his martyrdom.

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[305] Niʻmatollāh Ṣāliḥī-Najafābādī, *Jihād in Islam* (Jahād dar Eslām) (Tehran: Nashr-e Ney, 2003). Also look at Sachedina, "The Development of Jihād in Islamic Revelation" (1990); and Muṭahharī, "Jihād in the Qurʼān," (1986).

[306] He also wrote a critique on Muṭahharī's view of jihād titled *Ḥamāse-ye Ḥusaynī* (*The Ḥusaynī Epic*).

[307] Neʻmatollah Ṣāliḥī-Najafābādī, *Shahīd-e Jāvīd*, 13th ed. (Tehran: Rasa publication, 1985). For an abstract of *Shahīd-e Jāvīd* see: http://www.ghadeer.org/english/history/ashura/ashura3.html50.

[308] *Shahīd-e Jāvīd* was published in Qom-Iran in 1972 and, in the words of Ahmad Naraqi, "brought a turning point in the historiography of 'Ashūrā." See Ahmad Naraqi, "A Review of Historiography of Ashura in Shīʻism," in http://www.ghadeer.org/english/history/ashura/ashura3.html50.

In Ṣāliḥī-Najafābādī's opinion, and unlike the view commonly held by the Shī'a public, Ḥusayn's uprising was not a response to a predetermined divine call on his martyrdom, rather, it was primarily after military victory over Yazīd's forces in the first stage, and once that strategy failed, it was after an honorable peace, and only in the last stage, martyrdom became an imposed alternative.[309] Ṣāliḥī also maintained, again contrary to the view of the majority, that the Muslim world did not benefit from Ḥusayn's martyrdom, for it led to about a century of the corrupt Umayyad rule.[310]

By implication, Ṣāliḥī-Najafābādī rejects any forms of suicidal venture to be justified under the rubric of 'martyrdom.' A just war for him must be based also on a rational calculation and reasonable possibility of victory.[311] He also denies that the political leadership of the Shī'ī Imams is divinely pre-ordained; rather, he asserts, any justified political leadership (with the exception of the Prophet's case) must be based on popular will and vote. His view was considered as the anti-thesis of 'Alī Sharī'atī's opinion on martyrdom that was widely used by the underground militants in Iran before the Islamic revolution of 1979 (Sharī'atī is known as the intellectual architect of this revolution). Ṣāliḥī's critics maintained that he has reduced Ḥusayn's mission to a worldly venture.

The third view, which has gained popularity since the thirteenth century CE, holds that Ḥusayn knew, long in advance, that he would be martyred and therefore he came to Kūfa primarily seeking martyrdom given its high value in Islam. Askarī argues that the oath of allegiance (*bay 'a*) in Islam is not necessarily always for political power like the allegiance of the first *'Aqaba* between the Prophet and some of his companions that was for conversion to Islam rather than for politics.[312] Therefore, he denies that the oath of allegiance given to Ḥusayn by the Kūfans established a ground for a power-seeking political move on his part.

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[309]Ne'matollah Ṣāliḥī-Najafābādī, *Shahīd-e Jāvīd*, 13th ed. (Tehran: Rasa publication, 1985) 159.

[310] Ṣāliḥī-Najafābādī, *Shahīd-e Jāvīd*, 336.

[311] Ṣāliḥī-Najafābādī, *Shahīd-e Jāvīd*, 45.

[312] See Murtaḍā 'Askarī, *The Martyr of the Revival of the Faith* (Tehran: Nashre Congereh, 2001) 98.

On the *jus in bello* plane, Ṣāliḥī provides a new reading of the Qur'ānic verses related to war without resorting, like almost all classical exegetes, to scriptural multiple abrogation. He maintains that all major jurists of both Sunnī and the Shī'ī schools, in an effort to be comprehensive, have neglected to scrutinize individual legal topics. Instead, they have copied extensively from one another, and gradually created rigid laws irrelevant to the scripture, Islamic tradition, and their contemporary life.

He claims that all Shī'ī jurists beginning with Shaykh Ṭūsī (d. 1066-7 CE),[313] have acceded to al-Shāfi'ī's (d. 820 CE)[314] erroneous rulings on jihād, while al-Shāfi'ī himself relied on a notorious ḥadīth forger in this field.[315] All such jurists, in Ṣāliḥī's view, have re-written Islamic history based on their juridical views rather than historical and textual facts.[316]

These jurists, according to Ṣāliḥī, distort both the *sīra* and the scripture. The legitimacy of primary war in Islam and 'awkward' rulings such as the one developed by al-Shāfi'ī that espouses the necessity of at least one offensive war a year for the Islamic state are exemplary misinterpretations.[317] On another ruling, Ṣāliḥī maintains, there is no basis for surprise attacks since there were no surprise attacks under the Prophet. Their sanction represents a subsequent juridical invention.

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[313] Muḥammad Ibn al-Hassan al-Ṭūsī was a prominent Shī'ī scholar, known as the first jurist to adopt a part of the Sunnī jurisprudence in the Shī'ī school.

[314] Abū Abdallāh Muḥammad Ibn Idris, al-Shāfi'ī, a prominent Sunnī scholar, known as the first author of *'uṣūl al-fiqh* (methodology in Islamic jurisprudence).

[315] Ṣāliḥī holds that the root cause of militant views on war is the sanctification of several unauthentic ḥadīths that came from Abu Hurayra, Ibn 'Umar and Ṭalḥat Ibn Zaid. "Once such radical views were expressed by some of Prophet's companions and the second generation (*tābi'īn*) and established without any critical challenge within the first two centuries, they were sanctified and hard to change by later generations." See Ṣāliḥī, *Jihād in Islam*, 158. For Ṭūsī's import of the Sunnī jurisprudence into the Shī'ī law see also Hossein Modarressi, *An Introduction to Shī'ī Law, a bibliographical study*, (London: Ithaca Press, 1984) 44. He contends that it was through Ṭūsī that, "non-Shī'ī concepts, which were alien to traditional Shī'ī thought, also crept into Shī'ī law and created some inconsistencies in it."

[316] Ṣāliḥī, *Jihād in Islam*, 76.

[317] Ṣāliḥī, *Jihād in Islam*, 76, 83-5.

The Qur'ān's tone in addressing the issue of prisoners of war, as reflected in Q. 8:70, is affable, hopeful and conciliatory.[318] Captives are treated as people who need pity, guidance and benevolence.[319] Q.47:4 sets down guidelines for their treatment. They should be either freed unilaterally without precondition or allowed to be bought and thus freed by their relatives or some benevolent institution, be it state, tribe or other social organizations."[320]

In a striking case of misreading and misinterpretation, Ṣāliḥī challenges traditional exegetical views of Q.8:67. This verse reads:

> No apostle should take captives until he has battled and subdued the country; you desire the vanities of this world, but God wills (for you the reward) of the world to come; and God is all-mighty and all-wise. [321]

Ṣāliḥī reviews many classical and modern exegetical commentaries ranging from al-Ṭabarī's (d. 922 CE) to Ṭabāṭabā'ī's. These exegetes conclude first, that the Prophet must have executed all of the Badr war prisoners since they were taken before the war's termination and secondly, this judgment established part of the permanent law for treating prisoners of war. However, the verse, as Ṣāliḥī stresses, simply holds that Muslims in war must not focus on the material gains (e.g. taking prisoners in the hope of getting ransom) before the war comes to conclusion.[322]

The grave consequence, in Ṣāliḥī's opinion, is that these scholars of theology and exegesis like Ṭabāṭabā'ī have re-written sacred history against actual practice in the battle of Badr, where captives were released by ransom or grace. Based on their

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[318] Q.8:70 reads: O Prophet, tell the captives you have taken: "if God finds some good in your heart, He will reward you with something better than was taken away from you, and forgive your sins, for God is forgiving and kind."

[319] Q.47:4 reads: So, when you clash with the unbelievers, smite their necks until you overpower them, then hold them in bondage. Then either free them graciously or with ransom, until war shall have come to end."

[320] Ṣāliḥī, *Jihād in Islam*, 149.

[321] See Orooj, *Al-Qur'ān: A Contemporary Translation*.

[322] Ṣāliḥī, *Jihād in Islam*, 156.

misinterpretation of the verse, Ṣāliḥī holds, these exegetes have incredibly concluded that all other prophets had their prisoners of war, captured during the hostilities,[323] executed![324]

The Jurists' Tragic War Game: The Letters/Spirit Dichotomy

Based on the full account of both Sunnī and Shīʿī jurists' identical, consensual opinions on the laws of war, Ṣāliḥī constructs a hypothetical war simulation to demonstrate the serious and vast inhumane implications of the jurists' war views. For its very revealing importance, the full account of the simulation as explained by Ṣāliḥī will be provided in the following:

> "Suppose in a hypothetical war case, there is a report that the Islamic forces have captured twenty thousand prisoners of war from the enemy of whom, ten thousand have been captured during the battle and the rest surrendered after war's conclusion. The two distinct groups of prisoners of war each have been kept, in a corner of the war scene next to a large sign that describes their status and facing the other group. The Islamic commander (ruler) is also stationed in his special chair ready to command on the fate of the prisoners of war and close the war's chapter. His speaker reads a statement on his behalf. A representative of the international media is present there too, reporting on the details of the last stage of the war. According to the statement just read on behalf of the commander, the prisoners of war that surrendered at the end of war will be subject to Islamic graceful treatment based upon Q.8:70. The speaker continues reading the verse: "if God finds some good in your heart, He will reward you with something better than was taken away from you, and forgive your sins, for God is forgiving and kind" the speaker reads. He continues:" Now that your fate has brought you here, do not be heart broken because underneath Islam's protection you will receive full respect and you are free like all other human beings, for God has created every single of them free; The kind arms of Islam is wide open to embrace and serve you, and you can choose wherever you want to live in the abode of Islam without being forced to convert as we read in the holy book, Q.2:256: "there is no compulsion in matter of faith." "Or you are free" the speaker reiterates, "to go back to your home land as you wish." "In order for you" he continues "just to remember the affable position of Islam on prisoners of war, we will present each of you with a frame quoting the Qurʾānic verse I just read for you; at this juncture I call upon you to get your gifts and proceed to the reception arranged to honor your departure." At this juncture an international media reporter asks the speaker whether the ceremony is over. He retorts that: "this was the Islamic ruling on the first group of prisoners of war who were just released based on Q. 47:4 that gives us two choices of either releasing them on ransom or let them free by grace, and we chose the second option to enhance the international reputation for Islam."

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[323] Jurists made a distinction between the prisoners of war captured before and after the war's conclusion; in their opinion, the ones captured in the middle of war must be executed, and the ones captured at the end released by grace or ransom.

[324] Ṣāliḥī, *Jihād in Islam*, 180.

As this scene has raised a great hope in the heart of the second group of prisoners of war and expecting the same ruling on themselves, suddenly a number of executioners enter the scene each carrying a sharp sword ready to follow orders. The speaker reads a new statement: "This second group of the prisoners of war who were captured before the termination of the battle will be executed in the form that an opposite hand and leg of each will be severed and they will be left to die" he announces. At this point the prisoners will be brought before the executioners in ten groups each of a thousand, and their arms and legs will be severed as ordered and their still alive bodies thrown in a large ditch that was prepared in advance. The moaning and crying of thousands of the unfortunate tortured and mutilated prisoners of war who will suffer for long before their death will fill the air as millions of television spectators around the world are watching this dreadful tragedy, while the Islamic commander and his staff are observing the scene in cold blood, emotional indifference, satisfied that they have just implemented their religious obligation (*taklīf shar'iyya*), and will be duly rewarded by the almighty.

After a break during which all the mutilated captives lost their lives, the floor was open for the media. A reporter asked, "Why did you free the first group of prisoners with such respect and so graciously and execute the second group by torture, did the latter pose serious threat against you?" The commander of the Muslim forces answers: "No, they did not pose any threat; we just executed them to fulfill an obligatory law based on a ḥadīth from Ṭalhat Ibn Zaid." Another reporter asked, "Does this ruling limit you to execute them by such torture or gives you other options as well?" The commander: "No, we could simply behead them instead." A reporter: "But for the first group, you chose to free them without ransom in order to promote the international image of Islam, haven't you?" The commander: "The jurists, as reflected in the text of '*Sharḥ al-Lum'a* (a collection of *sharī'a* rulings) in vol.1, page 260, have ruled, about the specific methods of their execution, that we do not need to care for public exigencies (i.e. public image, interest and etc.), thus we just did what we liked to do no matter extra pains for the prisoners of war." A reporter: "What kind of law or social necessity would entail that you execute a group of captives with such a callous method, while releasing another group so gracefully and with utmost respect?" Another reporter adds: "and what amazes us further is that you delivered frames of a Qur'ānic verse to the first group according to which you must have been graceful to all the prisoners of war, without exception!" The reporter continues: "According to Arabic philologists, the word *al-asrā* used in Q. 8:70 and because of the letters *al* it carries before the word, becomes universal and covers all types of prisoners of war; what then could possibly justify your prejudice against the second unfortunate group?" The commander: "It is true that the ruling of Q.8:70 applies to both types of the prisoners, however the ḥadīth of Ṭalhat Ibn Zaid, excludes out the second group from the general amnesty granted by the Qur'ānic verse to all." The same reporter argues: "Does this single ḥadīth have such an authority to delimit the Qur'ānic verse!?" The commander: "Well the ḥadīth of Ṭalhat Ibn Zaid is known to be among the weak ḥadīth and therefore lacks authenticity, however, since a number of well-known jurists have formed and issued a consensus (*ijmā'*) ruling on it, the consensus remedies the weakness of the ḥadīth, thus its treatment like an authentic ḥadīth and its authority to delimit the Qur'ānic verse." Another reporter: "Is it justice, that a few thousand prisoners of war, against the very text of the Qur'ān, be executed through torture in such a tragic method, and thereby the callous act would tarnish the international image of Islam, and all this, just on the basis of a weak ḥadīth?!" The commander responds: "So far this is has been the ruling of all the well-known jurists, the renown Allāma Ḥilli (d.1325 CE) has even stressed 'this is the ruling of all our jurists', having said this, I have to conclude this session by adding that our jurisprudence is very progressive and welcomes new rulings on this matter, provided that we have new legal reasoning (*ijtihād*) which rejects both the weak ḥadīth and justifiability of remedying it by the jurists' consensus, in which case (in the face of the new ruling) we will treat all of

the prisoners equally, gracefully, and with respect; our sincere hope is that such *ijtihād* would take place soon and benefit our Islamic society *inshā'allāh* (God willing)."- End of the jurist's war-gaming scenario.

The obvious and profound dichotomies between, scripture and jurisprudence, the letters and spirit of law and ethics, and ends and means, as reflected in the scenario constructed by Ṣāliḥī, is an affront for any moral thinker. The scenario mentioned in the footnote proves that the inconsistencies inherent in the approaches of the traditional Islamic law to war come to their full contrast and rational impasse in their modern implementation.

Ṣāliḥī's criticism of the views of these jurists goes beyond the above mentioned rulings to include the most important features of war. For Ṣāliḥī, law by itself can not be an end, rather he feels jurisprudence must be cognizant of the consequences of its rulings.

Although Firestone and Ṣāliḥī treat the questions of war in Islam from different perspectives, they arrive almost at the same conclusion: early militant jurists have prevailed and have rewritten the sacred history. Warfare lost its concern with justice and humanitarian values under the Umayyads,' the Abbasids,' and the subsequent Sulṭānates.

Conclusions

One of the most important features of all religions and ethical philosophies is that they exhort human beings to be in control of their immediate impulses and spontaneous actions, and abide by prudence in order to attain justice and divine rewards. Warfare, where wrath and anger usually rule, is the most difficult field to impose such control and realize such prudence. Philosophers of ethics define justice as a point between two extremes. Courage, as a virtue, is praised as the just point between the two extremes: foolhardiness and cowardice. While these definitions and categories are easily imagined, they are difficult to implement in practice.

The gist of the just war theory is to fight for a just cause in a just manner. Many attempts have been made to define and qualify these notions but most of these

endeavors presuppose that the pursuers of justice will maintain some interest in their own fate. Justice is worth fighting for but the cost of victory must not be very high. Here they draw vague ethical lines where one should choose to lose. This is the boundary between practical ethics and the idealized world of epic literature and heroism.

As a paradigm of virtue, 'Alī crossed this boundary many times. In doing so, he placed himself in the awkward position of appeasing his staunchest enemies and angering his closest associates. Yet, he turned the political victory of his opponents to a moral defeat, though his associates often remained frustrated. This unresolved frustration brought the hardening of attitudes over the course of future generations.

Al-Husayns's emphasis, in his last speech, on liberality (*hurriyya*) as an alternative to faith, remains as a perpetual reminder that the sense of justice is deeply embedded in every human being independent of the narrow sectarian or cultural definitions. He called for the use of this sense in judgment about one of the most tragic and unfair battles to be remembered by history. This was a clear call to serious observation about 'just or unjust war,' as a notion that is more based on a natural sense than on a speculative theory.

As the overall spirit of the Shī'ī ḥadīth collections show, Shī'ī Imāms undertook a significant effort to contain the belligerent emotions of their respective community against their oppressors. They accomplished this primarily by banning any conflict that lacks proper Shī'ī authority.[325]

The Sunnī legalistic approach to laws of war, however, influenced Shī'ī rulings on war after the tenth century CE. Similarly, like Sunnī jurists, Shī'ī jurists gradually lost interest in regulating the conduct of wars, *jus in bello*. They pre-occupied

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[325] On the importance of authority in Shī 'ī school, Leaman points: "The distinction between Sunnī and Shī'ī Islam has only one important consequence for the laws of war, and that relates to the person who is authorized to declare war (Kohlberg 1976)." "For the Sunnīs," Leaman notes: "any relevant *de facto* political authority can declare war, while for the Shī'ī it must be an imām, a divinely appointed leader." Leaman concludes: "The insistence by the latter that only an imām can initiate jihād is at least partially motivated by the argument that it is vital to be clear about the real nature of the conflict which it is proposed to enter. It is all too easy for political rulers to declare what they call jihād when all they are really doing is furthering their own political interests, or those of the state." See Oliver Leaman, *A Brief Introduction to Islamic Philosophy*, (Cambridge and Oxford: Polity Press, 1999) 139.

themselves with consideration of the just causes of war, *jus ad bellum* and, with the advent of anti-colonial sentiments, embraced apologetic arguments.

The opening of the gate of *ijtihād* (independent legal reasoning) in Shiʿi school,[326] and the acquaintance of jurists with political realities in recent decades, seems to have encouraged a new critical reading of traditional sources for the laws of war. Modern Shiʿi scholars like Muṭahhari and Ṣāliḥi-Najafābādi have pioneered an ethical and humanist approach to the laws of war. The former has embraced a rather objective and cosmopolitan view of human rights as one of the highest moral features of any society. The latter has attempted to adapt these laws, through a genuine critical thinking, from their original ethical bases in sacred texts and actual history to modern needs and realities; and in doing so he has challenged the arbitrary militant interpretations of the Scripture.

Ṭabāṭabāʾi argued that the history of the early Muslim conquests is not a necessary part of Islam. For him, in fact, this traditionally considered glorious feature of the Muslim history has been quite harmful to the real cause of Islam namely its spiritual mission for the mankind. Kadivar and his like-minded like Abdulkarim Soroush take a further step and declare that the whole history of Islam is not a necessary part of it. They put justice and reason as the ultimate and the eternal criteria for Muslims to accept or reject any moral codes inside or outside of their traditional faith.

While Kadivar and his like-minded are engaged in a moral overhauling of the Islamic legal structure, other jurists like Iskandari, through a very genuine process of critical thinking, help the former with deconstruction and then reconstruction of the Islamic law, in specific fields such as war causes (*jus ad bellum*), pertinent to modern state of international relations and human rights.

Despite Islam's major deviation from its otherwise much more productive course, as Moḥaqqiq-Dāmād argued, Muslim jurists produced, a body of humanitarian

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[326] Wael Ḥallaq argues that, despite the prevailing contemporary view, the gate of *ijtihād* was never closed in Sunni Islam as well. Whether this gate was open or closed in either legal systems, it is a whole different argument than whether *ijtihād* was systematically and effectively used in all walks of life. See Wael Hallaq, "Was the Door of Ijtihad Ever Closed," In *International Journal of Middle East Studies*, 16(1984): 3-41), reprinted in *Law and Legal Theory in Classical and Medieval Islam*, (Aldershot: Variorum, 1995).

laws of war (*jus in bello*) that matches, complements and in certain areas, surpasses the most advanced and modern humanitarian international law.

Altogether, the above arguments also prove that the old-aged legacy of critical thinking in Shī'ī Islam is coming back with a new force. This is a fortunate and timely development not only for the Muslim world, but also for the whole body and practice of international law which is in dire need of spiritual support at its very foundation. A law supported by the sacred has always been more effective.

So far the intellectual responses of the Mulim cultures to the ethics of war have been explored more within the jurists's domain. The next chapter will provide a brief and selective account of some of the conceptual roots of war and some of the related responses to questions pertinent to war ethics within the philosophical, theological and mistycal grounds.

CHAPTER FOUR

THEOLOGY, PHILOSOPHY AND MYSTICISM

> You desire and do not have; so you kill
>
> Theodore J. Koontz

سهل شیری دان که صفها بشکند   شیر آنست آن که خود را بشکند

> It is easy for a lion to break rows of others,
> the real lion is the one who breaks the self
>
> Rūmī[327]

This chapter deals with philosophical, theological and mystical approaches to war ethics. War, at its roots, starts with the conception of 'self,' in contradistinction to 'others.' Through comparing some Western and Islamic theories of ethics, this chapter will study their similarities, differences, and the theoretical implications of these theories for the ethics of war. Since the very discipline of 'theoretical ethics' (*akhlāq-e nazarī* in Persian) is traditionally a branch of philosophy in the Islamic curriculum, the chapter is intended to lay the foundation for some of the main tenets of this thesis.[328] Views relevant to war in major Islamic theological schools such as the Ash 'arī and the Mu 'tazili schools and of moral philosophers, and Ṣūfis such as al-Fārābī (d. 950 CE), al-Ghazālī (d. 505 AH/1111 CE), Ibn Miskawayh (d. 1030 CE), al-Tūsī (d. 1274 CE), al-Rūmī (d. 672 AH/1273 CE) and Ibn al-'Arabī (d. 1240 CE) will be discussed. The chapter also briefly explores the relations between law and ethics. The distinction between these two separate disciplines is fundamental since Islamic literature on war is

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[327] Jalāl al-Dīn Moḥammad Mowlavī, (Rūmī) *Mathnavī-e Ma 'navī*, 3rd. ed., (from the 677 AH Manuscript), ed. Toufiq Sobhani (Tehran: Entesharat-e Rowzaneh, Tehran, 2003) vol.1, 59.

[328] The Aristotelian-Avicennian classification of philosophical sciences adopted by most of the classical and medieval Muslim authors divide philosophy into two main branches: 1) speculative wisdom (*al-ḥikmat al-nazariyya*) including mathematics, theology, and natural sciences, and 2) practical wisdom (*al-ḥikmat al- 'amaliyya*) including ethics, politics and household management or economics. See Naṣīr al-Dīn al-Ṭūsī's classification in Majid Fakhry, *Ethical Theories in Islam* (Lieden, New York: E.J. Brill, 1991) 131. See also al-Ghazālī's similar classification in Mohammad Ahmad Sherif, *Ghazālī's Theory of Virtue*, (Albany: State University of New York Press, 1975) 3, 4.

111

often based solely on the rich legal literature of Islam to the neglect of the wider ethical dimensions found in other categories of Islamic literature and discourse.

The Relations between Law and Ethics

This thesis deals with the 'Islamic ethics of war;' importantly, the word 'ethics' is chosen, as a notion distinct from 'law.' Within traditional Islamic scholarship, 'ethics' (*akhlāq*), and 'law' (*sharī'a*) are separate disciplines, nevertheless the possibility of allowing for such a distinction within the Qur'ānic text itself has been a matter of controversy for some time; for example, Islamic jurisprudence (*fiqh*), in the words of Hurgronje, is defined as a doctrine of ethics and duties.[329] And even if we distinguish established laws from commonly accepted moral rules, they share, to a great extent, the same spirit, are driven by the same consensus, and follow the same goals.

These similarities in aspiration have resulted in some coincidences between law and ethics in many cultures, not least of all in Islamic culture. Al-Ghazālī maintains that *fiqh* is the ethics of action whereas *akhlāq* is the ethics of character.[330] In the view of Izutsu, there are two distinct levels of ethical words in the Qur'ān. "the primary level," that he calls objective language, is "essentially descriptive, whilst secondary-level ethical words," what he calls metalanguage, "are essentially evaluative."[331] He stresses that the pure value-words of the second type are rarely scattered in the Qur'ān and "a system of well-developed secondary ethical terms is not to be found in the Qur'ān itself," rather it is the subject matter of jurisprudence in its first centuries.[332] Although

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[329] Snouck Hurgronje, quoted in Muḥammad Khalid Masud, "The Scope of Pluralism in the Islamic Moral Tradition," in *Islamic Political Ethics: Civil Society, Pluralism, and Conflict*, ed. Sohail H. Hashmi (Princeton and Oxford: Princeton University Press, 2002) 139.

[330] Within the Western ethical discourse, such distinction exists between the Aristotelian character-based ethics versus the principle-based deontological and teleological ethics. See Bernard Mayo, "Ethics and the Moral Life," in Tom L. Beauchamp. *Philosophical Ethics, An Introduction to Moral Philosophy*, (New York, St. Louis, San Francisco, Auckland, Bogota, Hamburg, Johannnesburg, London, Madrid, Mexico, Montreal, New Delhi, Panama, Paris, Sao Paulo, Singapor, Sydney, Tokyo, Toronto: Macgraw-Hill Book Company, 1982)151-154.

[331] Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'ān*, (Montreal: McGill University Press, 1966) 20. Notions of good (*khayr*)and evil (*sharr*) are examples of evaluative Qur'ānic words as different from words such as good-doer (*ṣāliḥ*) that is descriptive.

Izutsu admits that it may be hard or impossible to draw a clear line between the objective and the metalanguage, and that they may represent different intensity of the same ethical notions, yet he stresses that "difference of degree, when it goes beyond a certain limit, changes into a difference of kind."[333]

Indeed, these intersections have caused some contemporary Muslim scholars to modernize, de-historicize, and "purify" Islamic law from various cultural nuances in order to make it adaptable and compatible with modern life. The distinction these scholars are trying to make in Qur'ānic doctrine is between what they consider the eternal moral rules on the one hand, and the ephemeral, culture-bound legal rulings on the other.

For example, Kadīvar[334] has argued that the jurisprudential rule of abrogation (*naskh*), hitherto applied to some of the Qur'ānic verses by all the schools of Islamic jurisprudence, may be extended to cover the entire corpus of the legal injunctions derived from the Medinese *sūras* of the Qur'ān which seem to fit only the nascent Islamic society and its specific historical milieu.[335] At the same time, Kadīvar maintains that the Meccan moral rules of the Qur'ān are eternally valid and should be used to codify new positive Islamic laws commensurate and relevant to life in the new millennium.[336] Kadīvar's view on the distinction between morality and law comes very close to the view expressed in the mid twelfth century (c. 1140 CE) by a Christian monk named Gratian who is known also to be the first person that collected the Christian canon law. He maintains that, "Morality is divine ordinance, law is human ordinance...Divine ordinances are established by nature, human ordinances by usage."[337]

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[332] Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 21, 23.

[333] Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur'ān*, 22.

[334] Moḥsen Kadīvar is a professor of Islamic law and philosophy at Tehran University.

[335] Moḥsen Kadīvar, "The Religious Intellectualism," *Āftāb*, (82), (Tehran: August/September 2003) 28.

[336] Kadīvar, "The Religious Intellectualism," 34.

[337] Agustine Thompson, O.P., Trans. *Gratian, The Treatise on Laws, Decretum DD. 1-20*, (U.S.:The Catholic University of America Press, 1993), 4.

Less radical than Kadīvar's extensive use of abrogation rules are proposals by Fazlur Rahman and Hashmi. Fazlur Rahman looks at ethics as the soul of law. He maintains that, "The Qur'ān is not a book of abstract ethics, but neither is it the legal document that Muslim lawyers have made it out to be. It is a book of moral admonitions through and through."[338] In Rahman's view, "The rise and development of Islamic law, as they actually occurred, kept the Muslim's attention focused on details, at the expense of...the general requirements of the Qur'ān."[339] Hashmi suggests that Muslims must "disentangle Islamic ethics from medieval Islamic law" and treat the Qur'ān as "a complete ethical system" in order to produce new rules for Muslim participation in international life.[340] The common ground in the views of Kadīvar, Rahman and Hashmi is that norms of ethics as the spirit and the foundation of law are eternal, whereas rules of law are ephemeral and constantly subject to change through the vicissitudes of history and geography.

Conversely, Goodman, a historian of Islamic philosophy and religion, holds that similar to biblical Judaism, Qur'ānic Islam does not make a sharp distinction between law and morals, implying therefore that Islamic laws and morality are having less fluidity that the above contenders suggest.[341] For Coulson, although the dividing line between law and morality in the Islamic *Sharī'a* (jurisprudence) is not as clear as in the Western societies, yet *Sharī'a* does contain both. He shows how in certain fields such as sexual behavior, there is clear distinction, in his words, "between the rule which is enforced by the law as applied by the courts and the rule which finds its sanction only at the Bar of eternity."[342]

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[338] Fazlur Rahman, "Law and Ethics in Islam," in *Ethics in Islam,* ed. Richard G. Hovannisian (Malibu, CA: Undena Publications, 1985) 8.

[339] Fazlur Rahman, "Law and Ethics in Islam," 1985, 12.

[340] Sohail Hashmi, "Islamic Ethics in International Society," in *Islamic Political Ethics: Civil Society, Pluralism, and Conflict,* ed. Sohail H. Hashmi (Princeton and Oxford: Princeton University Press, 2002) 170.

[341] Lenn E. Goodman, *Islamic Humanism* (Oxford: Oxford University Press, 2003) 88.

[342] Noel J. Coulson, *Conflicts and Tension in Islamic Jurisprudence,* (Chicago: The University of Chicago Press, 1969) 79, 80.

114

In order to accommodate modern life with medieval Islamic law, many theologians have sought to delineate between what is clear and fixed (or in Qur'ānic term *muḥkam*) and what is ambiguous or fluid (*mutashābih*); importantly, much of the modern Qu'rānic interpretation based on the expansive fluid part of the Qur'ān reinterprets the tradition of Mu'tazilism. This is a tradition wherein law and theology (*kalām*) in their pre-Shāfi'ī mode are not separated (note must be taken that the Mu 'tazilites did not see themselves as formulating law).[343] Nevertheless, this debate depends on the criteria and standards that are used for Qur'ānic analysis.

Another measure, for example, is that whatever is subject to enforcement is law whereas the basis of morality is choice. In other words, no virtue or moral value can be produced under force; in fact, it can be argued that coercion is very much the antithesis of moral action as the Kantian ethics maintain.[344] Coulson observed that a British view looked at law as the enforcing instrument of Morality.[345] From another perspective, law provides the minimal order for the society.[346] However, a perfectly legal society, wherein each member tries to follow and implement the law in all its details, is not necessarily a moral society. Rather, it is a well-functioning but a minimally moral society that cares for law only because of its utility rather than its inherent values. If in such a society, there are absolutely no instances of generosity, forgiveness, liberality, magnanimity, charity, or other moral values and virtues, it may be well-functioning and perfectly legal but is minimally moral. From this perspective, ethics hold a position

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[343] George Makdisi holds that it was al-Shāfi 'ī who for the first time separated *kalām* (theology) from *fiqh* (jurisprudence). See George Makdisi, "Ethics in Islamic Traditionalist Doctrine," in *Ethics in Islam,* ed. Richard G. Hovannisian (Malibu, CA: Undena Publications, 1985) 54.

[344] According to Kant, "…moral value (of an action), therefore, does not depend on the realization of the object of the action but merely on the principle of volition by which the action is done, without any regard to the objects of the faculty of desire." See Immanuel Kant, "The Good Will and the Catagorical Imperative," in Tom L. Beauchamp. *Philosophical Ethics,* 1982, 119.

[345] See Noel J. Coulson, *Conflicts and Tension in Islamic Jurisprudence,* (Chicago: The University of Chicago Press, 1969) 77.

[346] Abdulkarim Soroush maintains that "law contains the minimal morality for the society, but the society's moral needs go far beyond and above that level." See Abdulkarim Soroush, "The Perfect Islamic Society," http://www.bbc.co.uk/persian/iran/story/2006/01/060108_sm-mb-soroush.shtml.

above law. However, the opposite situation is not possible; there cannot be a perfectly moral society that is lawless and chaotic.

The task of differentiating between ethics and law perhaps reflects the axiomatic Aristotelian principle that wherever friendship rules, there is no need for justice.[347] By implication, with intra-state friendship, there is no need for war. It is obvious that friendship becomes the rule not in a perfectly legal, but in a moral society.

Modern Western scholarship engages in many of the same controversies within the question of the relations between ethics and law; foremost among these is the debate between the 'formalism' and the 'content theory.' Modern Western Formalists, similar to the medieval Muslim *adab* ethicist, propose that morality is a matter of the attitude that a person takes up toward a problem, rather than the intrinsic characteristics of the problem itself.[348] In other words, morality or ethics reflects one's outlooks and manners rather than any type of positive action.

Islamic Theology, Ethics, and War

War, an institution as old as humanity itself, has many trajectories in Islamic tradition, a number of which have been neglected. Modern Western scholarship has produced many thought-provoking studies in recent years. However, it should be borne in mind that much of the work has focused exclusively on traditional Islamic legal discourse (*shari'a*), or at best, have included some more recent interpretations and commentaries of the Qur'ān and the Tradition (*sunna*). This neglect may be linked to a chronic bias.

Muslim scholarship, moreover, despite its richness in substance and information, has not always analyzed its sources critically. The domination of the legal aspects of Islam over other areas of scholarship has had, and still has much to do with politics and the intricacies of power structures. The basis of law in Islam stems from the Qur'ān. The Qur'ān, however, contains only a small number of legal judgments. Among more than

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[347] See Aristotle (*1155a*), *The Nicomachean Ethics*, 120.

[348] For a concise account of these theories, see: Jules L. Coleman and Jeffrie G. Murphy, *Philosophy of Law: An Introduction to Jurisprudence*, (Boulder, San Francisco, and London: Westview Press, 1990). For formalist theory, see R. M. Hare; for content theory, see H. L. A. Hart; for 'Positive' ethics, see G. H. Warnock.

six thousand of the total Qur'ānic verses, only less than two hundred are strictly legal—a ratio of less than one thirtieth.[349] They appeared only after the emigration of the Prophet and his companions to Medina. Almost all of the Meccan verses that are related to codes of behavior are of a moral character and fall in the category of ethics.

The Fallacy of Deterministic Moral Progress

The emigration of early Muslims to Medina signified a change of status for them from a community in Mecca to a state in Medina; crucially, with this development also came a shift in the tone of the Qur'ānic verses. The verses, generated during the Meccan time, reflect a generally tolerant moral tone, but with the move to Medina the verses indicate an increasingly legalistic tone. The subsequent general tendency adopted by the Medinese Muslim community was to follow the legal Medinese precepts over the ethical Meccan ones wherever the two perspectives came into conflict. There was little or no effort on the part of the Medinese Muslim society to regard the Medinese verses as particular to the historical circumstances of the community. As a result, most cases which involved interpretive Qur'ānic abrogation between two conflicting verses resulted in favor of the specific and strict legalistic directive, rather than the earlier broad, and more relaxed ethical rulings.[350] Remarkably, it was as if there was a universal rule about the inherent higher value for the specific than for the general, and for the chronologically later verses than for the former.[351]

In short, the ethical past systematically and unquestionably have fallen victim to the legalistic present. The more specific the rulings became, the more the new Medinese society felt a need for experts to apply the new rulings to various cases. In other words, there was not so much a need for experts in ethics, as there was for the law proper. This

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[349] About five hundred verses are subject of jurisprudence of which more than three hundred only deal with ritual devotions.

[350] A few samples were mentioned in Chapter Two.

[351] This resembles the Marxist view of the historical deterministic progress; a progress which also carries with itself a sense of value according to which the future mode of history and society is always better than the past.

trend soon spawned a whole new class of jurists and 'ulamā. In the process, these experts institutionalized themselves and, through the field of their expertise, played an integral part in Islamic society over the course of the next few centuries. A major cause of this trend was the fact that the jurist al-Shāfiʿī (d. 820), had systematically refuted free reasoning (*ijtihād al-ra'y*) replacing it with analogical reasoning (*ijtihād al-qiyās*) and limited the sources of the law strictly to scripture and ḥadīth. This was at the cost of common sense in law. Subsequently most other fields of the humanities (such as social history) became subordinated to an abstract sense of Islamic law. The process, also served a political purpose; it augmented the power of later rulers such as the Saljūqs.

According to Hourani, this legalistic trend was by no means inevitably inherent in Islam.[352] Significantly, one of the earlier theological school that appeared in Islamic society was the Muʿtazilite, with its humanistic tendencies. Goodman maintains that "although the Muʿtazilites were hardly liberal, their *kalām* is, in many ways, a form of humanism. For it preserves human free will and deems human reason competent to judge justice and injustice, even on God's part."[353] To this Reinhart adds: "If the Mu 'tazila are 'low church,' on Revelation, they are 'high church' on humanity. When the world is unknowable in advance of its becoming, when acts surge between good and

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[352] See George F. Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge, London, New York: Cambridge University Press, 1985) 33. Here, Hourani asserts that two other incidents locked the fate of early freethinking in Islam. The first was when 'Abdullah Ibn al-Muqaffa (d.795 CE) went so far in the application of free reasoning to law as to suggest that only the Muslim leader (caliph or Imām) has the absolute right to interpret the law of *sharīʿa*; importantly, Ibn al-Muqaffa's view, by implication, became a reminder of the power of the Shīʿī Imām. The second incident was the political blunder of Caliph al-Ma'mūn (d. 218 AH/833 CE) in his pro-Muʿtazila inquisition (the *miḥna* of 218 AH/833 CE), which caused an extreme anti-Mu 'tazilite reaction, supported by the conservative Ḥanbalism the fourth Sunnī school of jurisprudence, in the time of the Caliph al-Mutawakkil (d.847 CE). The al-Shāfiʿī understanding that one should act according to divine revelation, and that nothing outside of revelation could define or contribute to the understanding of justice, informs their view that "justice is that one should act in obedience to God." However, according to Hourani, this was not in accordance to the definition of justice from the Qur'ān: "the Qur'ānic definition of justice reflected in all its references to the term amounts to the fact that justice (*'adl*) originated as an intelligible physical concept of even balance and was developed into a no less intelligible concept of equitable, the balance of natural justice."

[353] Goodman, *Islamic Humanism*, 97.

118

detestable in their context, humans stand aloof, removed, timelessly capable of knowing most action's moral status."[354]

For the Mu'tazila, as the prominent Ash'arite theorist Qaḍi 'Aḍud al-Dīn al-Ijī (d.754 AH/1353 CE) has put it, "*shari'a* does not invent good and evil, rather, it discovers them.'[355] The Mu 'tazili authority Qāḍi (judge) Abu'l Ḥusayn 'Abdu'l Jabbār (known as the last prominent Mu'tazili theologist, d. 415 AH/1025 CE)[356] points in his treaties *Sharḥ Uṣūl al-Khamsa* that "Among what one must know about justice is that God's deeds are all good and He does not commit evil act, nor does He fail to do what is *obligated* (*wajib*) upon Him, nor does He lie, nor does He transgress in His judgment..."[357] Here, appearantly 'Abdu'l Jabbār refers to justice as an objective universal sense. This is just opposite to the Ash'ari view that is probably best expressed by the Ash'ari theologian Abu'l Ma'āli Juwaynī (known as Imam al-Ḥaramayn d. 1085 CE) in his treatise *al-Irshād.* "Good" Juwaynī contends, "is not a domain, extraneous to *Shari'a*, that could be discerned by it, rather, once *shari'a* praises the doer of an act, that action will be categorized as Good."[358] Conversely as Gholāmreza A'wānī has put it, the Mu'tazila believed in the primacy of reason over revelation in the sense that once a contradiction between reason and sacred text arises, it is the text that must be subject to interpretation (*ta'wīl*) so that it conforms to reason.[359]

The main ethical debate lies between objectivists and voluntarists. The former believe in a universal basis for morality that is contained in but not limited to the sacred scripture. Voluntarists, on the other hand, believe in a subjective morality, one which is

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[354] A. Kevin. Reinhart, *Before Revelation, The Boundaries of Muslim Moral Thought*, (New York: State University of New York Press, 1995) 160.

[355] See *The Greater Encyclopedia of Islam*, s.v. "The Philosophical Ethics" by Gholāmreza A'wānī.

[356]'Abdu'l Jabbār was appointed as chief justice in Ray during the reign of Buyids.

[357]See 'Abd-ur-Raḥmān, Badawī, *Madhāhib al-Ismamiyin* (*The History of Islamic Theological Speculations*), Translated by Ḥusayn Ṣaberī, (Mashhad: Āstān –e Quds-e Raḍawī, 1374/1994 CE) 75.

[358] 'Abd-ur-Raḥmān, Badawī, 1374/1994 CE, 790.

[359] *The Greater Encyclopedia of Islam*, s.v. "The Philosophical Ethics" by Gholāmreza A'wānī.

governed directly by God's will and revealed only through His holy writ.[360] Ash'arites belonged to the latter group. They defined notions like justice and reason only within the scope of the Islamic law (*sharī'a*).[361] The core of Ash'arī (870-915 CE) creed was that Muslims must follow the guidance of scripture closely in all religious matters. Ethical guidance in every sphere of life would have to remain within the legal limits set by al-Shāfi'ī.[362] This of course resembled ethical voluntarism in the sense that there could be no *a priori* criteria outside of revelation to distinguish right from wrong.[363]

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[360] This debate is reflective of the Platonic idea called "Euthyphro dilemma" in ancient Greek philosophy that addresses the following controversial questions: "Is the just because the gods love it, or do the gods love the just because it is just."

[361] Goodman, *Islamic Humanism*, 97. For the Christian parallels of the voluntarist theologians see George Makdisi's reference to Peter Damian (1007-1072 CE), Duns Scotus (1266-1308 CE), and William of Ockham (1300-ca. 1350). George Makdisi, "Ethics in Islamic Traditionalist Doctrine," in *Ethics in Islam,* ed. Richard G. Hovannisian (Malibu, CA: Undena Publications, 1985) 50.

[362] Hourani, *Reason and Tradition in Islamic Ethics*, 272.

[363] To compare similar debates in Western scholarship, the following notes should be taken although the discussion is an all too brief treatment of these theories: two major ethical schools have been produced from the content theorists' ideology: the Kantian School, which puts 'individual freedom' and 'self autonomy' as the most important societal value, and the 'Utilitarian' School of John Stuart Mill, Jeremy Bentham and others which value the greatest happiness for the greatest number. In the Utilitarian fashion, 'happiness' along with 'well-being' or 'welfare' are posited as the ultimate goals. The Kantian school values more the rights of individuals and the quality of life and the greatest self-autonomy even at the cost of happiness. Utilitarianism focuses on the future benefit of the majority and the quantity of welfare and if necessary at the cost of the minority. For this school, virtues like justice, fairness, rights and merit are well defined, but importantly, they are instruments towards a higher goal; virtues lack intrinsic primary values. In sum, for Utilitarianism, all rights, virtues, and values are defined within the general framework of the public utility. For Kantian ethics, wherever there is a conflict between the concept of public utility and individual's rights, the latter has priority. This debate between theoretical schools is essentially over the individual's freedom versus the collective happiness; however, it can also be reduced to the Kantian 'natural-objective rights' versus the Utilitarian 'subjective-conventional pleasures.' Additionally, Alasdair MacIntyre asserts moral priority cannot have a 'rational' basis, as he understands that rationality is itself a culturally conditioned concept. For MacIntyre, in order to have such 'rational choice' one needs a society with shared values that in his view today do not exist. On the extreme side of this outlook lies the 'emotive theory of ethics,' which argues that, morality and ethics have an emotional rather than rational basis. According to this rationale there must be a sort of mathematical rigidity and proof, or else anything goes. These propositions have been rejected by John Rawls and others who believe in objective basis for morality and that without such objectivity, it would be difficult for various contenders even to communicate. See Coleman and Murphy, *Philosophy of Law* (1990).

The Intellectual Legacy of the Mu'tazilites

A number of political factors brought the eclipse of Mu'tazili theology in the ninth century CE; however, its intellectual legacy of reason-based thinking continued under the Būyids. This legacy was a factor in the flourishing of knowledge and science between the mid-tenths to the mid-eleventh century CE. Remarkably, many branches of science and philosophy reached their full maturity during this period.

As to why the spring of Islamic intellectualism and humanism emerged in this particular period, many authors attribute it partially to the emergence of the Shī'ī regimes in much of the Islamic world from the Oxus to the Nile; specifically, many cite the Būyids' relatively high tolerance for other schools of theology and thought, and their impressive patronage of philosophy, science, and art.[364] Antony Black testifies to the Būyid reputation when he writes that "under the Būyids, religion was almost a private and communal affair. By providing political order without 'making windows into souls,' these Shī'ite regimes, especially the Būyids, facilitated a surge in intellectual energy."[365] To provide an explanation for this unique historical development, Black ascribes the Shī'ī intellectual openness to the fact that it was the view of the minority elite.[366] However, it is hardly convincing that an entire intellectual renaissance in so many walks of life could stem from a single political factor; therefore, the general openness could be better understood specifically on the basis of the two most important theological principles shared between Shī'ism and the Mu'tazilites: the objectivity and extra-

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[364] According to Joel Kramer, it is remarkable that in this period, "within the heartland of Islam, three Shī'ī dynasties held sway: the Būyids in Mesopotamia and Western Iran, the Ḥamdānids in Syria, the Fāṭimids in Egypt. Even the Sāmānids of Khurāsān, though Sunnīs, were often susceptible to Shī'ī (Ismā'ilī) influence. These Shī'ī regimes never made an effort to unite or even to impose their confessional preference upon the Sunnī population. But they were responsible in large measure for the intensive cultural expansion that went on. And the remarkable openness and readiness for the alien and the novel may perhaps be ascribed to their confessional orientation. This intellectual Shī'ism, which held political reigns while Shī'ī theology and jurisprudence were being formulated, was largely responsible for the intensive cultural activity which the Renaissance of Islam witnessed." See Kramer, *Humanism in the Renaissance of Islam* (Leiden: E.J. Brill, 1986) 288.

[365] Antony Black, *The History of Islamic Political Thought: From the Prophet to the Present*, (New York: Rutledge, 2001) 50.

[366] Black, *The History of Islamic Political Thought*, 50.

religiosity of justice and reason.[367] This objectivity meant that the sense of justice and the faculty of reason were defined outside the realm of any religion. In fact, these principles, as Kadīvar maintains, provide the very basis for the credibility of any belief system; and therefore the incentive to accept and adopt any faith and philosophy.[368]

Perhaps the theoretical flexibility of the Mu'tazila theology is best reflected in one of the cardinal principles of this theology known as the principle of *al-manzila bayn al-manzilatain* (the stage between the two stage). According to this principle, between Paradise and Hell, there is a third stage where the sinful Muslims will be sent. This was opposite to the Khārijite theology which condemned Mulim sinners (committers of cardinal sins) along with non-Muslims to Hell. According to Watt, this principle was reflective of a political flexibility on the part of Mu'tazila with the goal of, attrackting followers of various Shī'a and Sunnī factions, or in other words, reacing a compromise to bridge between Shī'a and Sunnī views.[369] Watt asserts however that aside from theoretical flexibility of Mu'tazila, their flexibility in real political life is still controvertial in modern Islamic scholarship.[370]

In theory however, these originally Mu'tazilite standards served as the backbone of Shī'ī theology and jurisprudence and perhaps were among the main reasons why the ruling Shī'ī minority elites did not impose their theology over the ruled majority.

It was al-Fārābī (c. 870-950 CE) who argued that philosophy precedes religion both temporally and logically; temporally, because he traces the beginning of philosophy to ancient Egypt and Babylon, prior to the Prophets Abraham and Moses; and logically,

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[367] Note should be taken that as 'Abdur Raḥmān Badawī asserts, ' '*adl* (justice) along with '*towḥīd* (oneness of God) is one of the two central principles of Mu 'tazilism. This is well reflected in the views of the prominent Mu 'tazili theorist Qāḍi 'Abdul Jabaar in his thretise *Al-Mughnī fī 'Uṣūl al-Dīn*. See 'Abdur Raḥmān Badawī, *Madhāhib al-Ismamiyin* (*The History of Islamic Theological Speculations*), Translated by Ḥusayn Ṣaberī, (Mashhad: Āstān-e Quds-e Raḍawī, 1374/1994 CE) 69. Justice is also one of the two central principles (along with *imāma*) of the Shī'ī theology.

[368] Kadīvar, "The Religious Intellectualism," 34.

[369] William Montgomery Watt, *Islamic Philosophy and Theology*, Abu'lfaḍl Ezzatī trans. Annotated by Jafar Shahidī (Tehran: Sherkat Entesharat Elmi, 1380/2001CE) 78, 96.

[370] Watt, *Islamic Philosophy and Theology*, 1380/2001CE, 75.

because all the truths of religion had first to be understood and stated in a logical way, before they could be espoused by prophets."[371] However, such philosophical approaches which understood ethics as an ontologically independent field did not prevail for long, and subsequently gave way to the traditionalist and legalistic view of reason mainly in its use as a contingent supplement to revelation.

The Objective Justice and its Implication for War

Mu'tazilite influence in the Shī'ī notions of objective, or natural justice has direct implications for war. Justice as an Aristotelian "master virtue" has the status of a master principle in both the Mu'tazili and the Shī'ī theologies as well.[372] In fact, justice is the most important common denominator among all secular and religious theories of just war. In the words of Hashmi, within the Islamic context "justice may be seen without oversimplification to be the core value of Islamic ethics, for it runs like a binding thread throughout the Qur'ān and the Prophetic tradition."[373] It is obvious that once justice

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[371] Hourani, *Reason and Tradition in Islamic Ethics*, 274.

[372] George Hourani argues that certain similarities of principles shared between Mu'tazila, and Shī'ī theology on the one hand and Zoroastrian, Manichean, Christian, and Greek philosophy on the other should not make us think that the former schools have copied these principles from the latter. Hourani maintains that the Mu'tazila and the Shī 'a based all their principles on the Qur'ān, hadīth, and independent reason. The similarities only show that they developed certain universally understandable theological and philosophical language that the early populations of the occupied lands like all those mentioned faiths could relate too. Hourani argues that in fact early Christians did exactly the same. His quotation from Thomas Aquinas is very revealing: "Some of them, such as the Mohammedans and the pagans, do not agree with us in accepting the authority of any Scripture, by which they may be convinced of their errors. Thus, against the Jews we are able to argue by means of the Old Testament, while against heretics we are able to argue by means of the New Testament. But the Mohammedans and the pagans accept neither the one nor the other. We must, therefore, have recourse to natural reason, to which all men are forced to give their assent. However, it is true, in divine matters the natural reason has its failings." Here Aquinas gives classic expression to the necessity of developing a common language. One striking sample of philosophical similarity that Hourani provides is between the Mu'tazila and Zoroastrianism. The barest elements are first, that their objective values are the same; second, that they share the rational knowledge of values; third, they are similar in everlasting rewards and purgative punishment (although purgatory does not exist in the Mu'tazilī tradition); and fourth they are similar in man's power (a source of evil for the Mu'tazila). There is only one major difference; that is, the figures of the Zoroastrian Ohrmazd and Ahrīman, sources of good and evil (Allāh is the source of good alone for the Mu'tazila).

[373] Hashmi ("Islamic Ethics in International Society," 162) refers to Q. 5:8 that reads in the last phrase 'be just: this is closest to piety.' Considering the fact that piety (*taqwā*) within the Qur'ānic context is introduced as the most important moral criteria for God's judgment on human being, Q.5:8 brings justice to sit next to piety as the second most important moral trait.

123

falls within the realm of revelation, war and peace follow, at least at the theoretical level, from the authority of religion; on the other hand, if justice stands outside the domain of faith, war and peace may logically and on the basis of natural law become a matter of universal and secular decision and discretion. As Reinhart asserts, "A natural law position is attractive in plurality; it is subversive of hegemony."[374] It is important to note that the political philosopher Rousseau (d. 1778 CE) extended the use of the reason-based objective ethics, beyond the domain of war's justification, into questions pertaining to the qualities of war. He maintained, whether war is justified or not, by virtue of reason, it should not harm various categories of individual non-combatants, because war takes place between states and not the unfortunate individuals who are caught in it simply by accident.[375]

Mu'tazilite principles provide a theoretical possibility to democratize the decision-making system for war and the qualities of war. Conversely, Ash'arite theology, which gives absolute power to religious authorities, and, unlike the Mu'tazili school, does not believe in human's free will, strictly limits the control systems in such decision-makings.[376]

It could be argued that the central authority of the Imām in Shī'ī thought would bring about autocracy just as it does in Ash'arite theology. In theory however, this is not plausible because the very legitimacy of the Imām is based not only on his genealogy but also on his sense of justice and just performance; factors that could freely be

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[374] A. Kevin. Reinhart, *Before Revelation, the Boundaries of Muslim Moral Thought*, (New York: State University of New York Press, 1995) 180.

[375] For Rousseau, as soon as a soldier lays down his arms and surrender, he must be immune like any simple man. He holds, "These principles were not invented by Grotius, nor are they founded on the authority of the poets: they are derived from the nature of things: they are based on reason." See Jean-Jacques Rousseau, *Du Contrat Social, Livre I, (The Social Contract)*, Trans. by Maurice Cranston, (New York and London: Penguin Books, 1968), 56.

[376] Note must be taken that although Shī'ī theology has adopted a good part of the Mu'tazili principles, it has also adopted the Ash 'arī principle of intercession which is basically a concept to mitigate God's punitive measures on sinful men hereafter. It leaves a negotiating door between God and his subjects eternally wide open and by the same token – at least in principle - denies any human authority to condemn anyone to hellfire on God's behalf. See Murtaḍā Muṭahharī, *An Introduction to Islamic Studies: Theology, Mysticism and Practical Wisdom (ashena'ī bā 'ulūm-e Islamī: kalām, 'irfān, ḥikmat-e 'amalī)*, (Tehran: Entesharat-e Sadra, 1371 (Persain calendar)/1992) 79.

recognized or refuted by his followers—in which case the Imām would lose his legitimacy—and not merely on the approval and the discretion of the jurists and legal scholars.[377] The next question is that in historical reality, to what extent have these theological factors determined or influenced the decision making in the Shī'ī community regarding both the cause and the qualities of war? As discussed in further details in the previous chapter, the most important mitigating factor of Shī'ī thought and practice regarding war is limiting any legitimate order of primary (offensive) war to the twelve infallible Imāms; in other words, no Shī'ī authority after the twelfth occulted Imām may order a primary (offensive and expansionist) war. This was perhaps among reasons for the Shī'ī Būyids' reluctance to replace the concurrent 'Abbāsid Sunnī caliphs in Baghdad with a Shī'ī authority, whom the Būyids would have had to obey on matters of governance and war.[378]

It is important to note that the reason-based theology of the Mu'tazila was not only impressive for a part of the Muslim Sunnī majority and minorities such as the Shī'a, but attracted non-Muslims as well. According to Hodgson, "many Jewish scholars professed a kalām that was Mu'tazilī in substance."[379]

Theology and War in Broader Perspective

Mu'tazilites and Ash'rites were the two predominant schools of theology (*kalām*) in the classical and medieval Islam. Nevertheless early-on during the internal insurgencies of

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[377]Hossein Modarresi points to criteria for the Imamate other than mere genealogy connecting them to the Prophet. A case at point is the Shī'ī controversy about the Imamate of 'Abdullāh Aftah a son of Ja 'far al-Ṣādiq whose authority and succession, was rejected by the Shī'ī community despite his seniority to Musa al-Kazim who became the seventh Imam. See Hosein Modarresi, *Crisis and Consolidation,* (Princeton: Darwin Press, 1993) 52, 64.

[378]Note must be taken that the Būyids (for example 'Adud al-Dowla) did change a Sunnī caliph with another. The general religious tolerance of the Shī'ī administration was not confined to the Būyids, for the Faṭimids of Egypt had many Christian ministers during the eleventh and early twelveth century (e.g. 'Isa Ibn Nasṭūrūs who served al-Muntasir). Al-Ḥākim and al- 'Azīz also had Christian ministers. As Conard maintains, "Tolerance of Jews and Christians is one of the characteristics of the dynasty." See *The Encyclopaedia of Islam,* new edition, s.v. "Faṭimids" by M. Conard.

[379]Marshall G. S. Hodgson, *The Venture of Islam, Conscience and History in a World Civilization (Volume 2: The Expansion of Islam in the middle period),* (Chicago and London: The University of Chicago Press, 1974) 175.

mid-seventh century CE (first century AH), there appeared other minority schools of theology whose views had serious implications for war in theory and practice.

Among the Khārijites (insurgents against both 'Alī -the fourth caliph- and his chief opponent the founder of Umayyads, Mu'āwiya), the most militant of them Azāriqa maintained, as noted by Watt, that all other Muslim individuals who failed to join them in their war against other factions were sinful, unbeliever (*kāfir*), had fallen outside the abode of Islām (*dār al-Islām*), and therefore must be killed in war along with their women and children.[380] Azāriqa, according to Watt, were the first political faction among Muslims who justified terrorism in practice and theology.[381]

The philosophical and theological foundation for the militant view of Azāriqa was based on their understanding of a Qur'ānic distinction between the residents of paradise (*ashāb al-Janna*), and residents of hell (*ashāb al Jahīm*) and the projection of this dichotomy into the mundane political situation within the famework of the abode of Islam (*dāl al-Islam*) and the abode of war (*dār al-harb*). Such view did not leave any space for a third ground. Azāriqa, consequently thought, that they are agents and facilitators for realization of the above Qur'ānic dichotomy.

Next to Azāriqa were another Khārijite faction named Najdiya that, like Azāriqa, easily condemned passiveness in the prevailing internal political dispute as a carnal sin deserving hellfire, but were a bit more lenient than Azāriqa in condemning sinners to death.[382] Next to Najdiya were a less radical Khārijite faction in Basra named Wāqifiya or Wāqifa (suspenders) who differed with the above factions in that they believed the execution and implementation of the above severe penal laws must be suspended

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[380] Azāriqa were the group of insurgents named after their leader Nāfi' ibn Azraq who maintained that both the pro 'Alī forces and those of Mu'āwiya that were engaged in war after the murder of the third caliph 'Uthmān, have committed a carnal sin (*kabīra*) and are therefore condemned to Hellfire (*jahīm*). They used this theological justification to call for an all-out war not only against all other formal political factions, but also against any individual who fails to join Azāriqa in their militant mission. According to Watt, a test of loyalty for anyone who sought to join Azāriqa was that he was handed with a prisoner whom the volunteer member must kill before being formally admitted to the group. See William Montgomery Watt, *Islamic Philosophy and Theology*, Abu'lfaḍl Ezzatī trans. Annotated by Jafar Shahidī (Tehran: Sherkat Entesharat Elmi, 1380/2001CE) 30.

[381] Watt, *Islamic Philosophy and Theology*, 1380/2001CE, 30.

[382] Watt, *Islamic Philosophy and Theology*, 1380/2001CE, 31.

Unlike Butterworth, this work does not explore how the medieval philosophers tried to explain "dominant opinions,"[387] rather it shows that they offered, based on their own view of Islam, new ideas directly or by implication. Butterworth maintains that "Al-Fārābī, discussed just war and questions directly related to it in several of his writings. Avicenna and Averroes, on the other hand, discussed just war only indirectly and even then in no more than one or two of their writings"[388] It is therefore important to explore Abū Naṣr Moḥammad al-Fārābī's (d. 950 CE) views on war ethics.

Al-Fārābī, the great Muslim logician, is known to have been a major proponent of philosophic ethics in Islamic history. Having Shī'ī inclination and believing in the universality of reason and justice as two faculties inherent in every individual, al-Fārābī did not hesitate to adopt a good part of the Platonic and Aristotelian ethical premises and definitions. He is known to be the first Muslim philosopher to have written a commentary on the *Nicomachean Ethics* of Aristotle.

In his *On Civil Government*, al-Fārābī enumerates various political systems, their foundations, and their moral characters. He explains that the ideal head of state, following the view of Plato, is a philosopher-king. He does not provide much detail about how his ideal political system works, because in his view, all the methods are well provided by Islamic law (*shari'a*). The 'virtuous city' (*al-madīnat al-fāḍila*) is headed by the philosopher-king, and king/prophet/legist in pre-Islamic and the Islamic era respectively and stands above all other systems.

Al-Fārābi establishes several important points. First, he recognizes the presence of a multiplicity of states.[389] Significantly, this is opposite to the traditional view of the

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jihād and allows neither to encompass the other." See 'Abd al-Raḥmān Ibn Khaldūn, *Al-Muqaddima*, ed. W. M. de Slane, trans. F. Rosenthal, vol.2 (Paris: n.p., 1858) 65-79, 73-88. Also see Charles E. Butterworth, "Al-Fārābī's Statecraft: War and the Well-Ordered Regime," in *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition*, ed. James Turner Johnson and John Kelsay (New York, London: Greenwood Press, 1990) 97.

[387] Butterworth, "Al-Fārābī's Statecraft," 80.

[388] Butterworth, "Al-Fārābī's Statecraft," 70.

[389] Abū Naṣr Moḥammad al-Fārābi, *On Civil Government*, trans. Seyed Jafar Sajjadi, (Tehran: Anjoman-e Falsaf-e-ye Iran, 1979) 168. Al-Fārābī uses the term *al-mudun al-fāḍila* in plural(the perfect

128

because human being is unable to draw a clear line between 'the residents of *jinna* (paradise) and those of *jahīm* (hell).[383]

Watt maintains that the latter faction was not an important political force in itself, but it signifies the trend of theological developments in the views from the most militant Kharijite faction Azāriqa to the most libral political faction namely Murji'a. Murji'a, diagonally opposite to Azāriqa, believed that the distinction between the residents of paradise and hell is beyond human's discresion. They rejected the exclusivist views of Khārijites, and expanded the field of 'faith' (*imān*) to be vastly inclusive of various Islamic political and theological views. Thus, they added a third new domain, the abode of faith (*dār al-Imān*), to the abodes of peace and war.

The net political result of the Murji'a's view was rejection of insurgency against the ruling Umayyads.[384] In other words, Murji'a, by their most exclusivist stance within a spectrum of Islamic theological views, produced the most liberal position of early political Islam and therefore the least militant among various factions.

Philosophical Ethics, War and al-Fārābī

There is a controversy among Western scholars on whether the medieval Muslim philosophers understood the 'just war' theory within the concept of jihād (as Joel Kramer believes),[385] or conversely considered jihād as a case within the broader category of the former (according to Butterworth).[386]

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[383] Watt, *Islamic Philosophy and Theology*, 1380/2001CE, 34.

[384] Watt, *Islamic Philosophy and Theology*, 1380/2001CE, 49.

[385] Kramer holds that the issue of just war is amply treated by Western theologians, political philosophers and theorists of international law, but it is not a relevant topic for Islamic political doctrine, for which the concept of just (or justified) war is comprehended by jihād; see, "The *Jihād* of the *Falāsifa*," Jerusalem Studies in Arabic and Islam, 10 (1987): 312, n. 74.

[386] Butterworth rejects Kramer's contention by examining Ibn Khaldun's views on war which proves, as Butterworth holds, that Muslim philosophers observed a clear distinction between jihād and just war. Ibn Khaldūn describes four kinds of war: the first is tribal warfare, such as that which existed in the Arabian desert, caused by "jealousy and envy;" the second are feuds and raids which are characteristic of primitive people, caused by "hostility;" the third are wars prescribed by the sacred law, caused by "zeal in behalf of God and His religion;" and the fourth are wars against rebels and dissenters, caused by "zeal in behalf of royal authority and the effort to found a kingdom." By reference to the last category Butterworth concludes, "contrary to Kramer's assertion, then, Ibn Khaldūn distinguishes just war from

Islamic jurists who divide the world into two (or at most three) domains: the 'abode of peace' (*dār al-Islām*), the 'abode of war' (*dār al-ḥarb*), and the 'abode of treaty' (*dār al-ʿahd*).[390] Thus, al-Fārābī's recognition of multiplicity of states removes, at the theoretical level, a major impediment in the way of the development of an Islamic international law.[391]

Al-Fārābī also sees absolutely no conflict between the *Sharīʿa* and natural reason, thus asserting the compatibility of philosophy and revelation.[392] In this sense, and by implication, Fārābī expands the philosophical notion of justice to include natural justice, and as we have demonstrated, natural justice belongs to the very foundations of the perfect-state's policies of war and peace. In other words, for al-Fārābī, the concept of war fits more within the just war theory than the holy war in jurisprudential context, for justice becomes universal in the former realm.

In *mabādī ārāʾ ahl al-madīnat al-fāḍilah* (The Principle of the Opinions of the Inhabitants of the Perfect State), according to Walzer, al-Fārābī presupposes the essential solidarity of mankind (considering all men as parts of the same species), a factor which facilitates the conception of a universal state. "This demand for world peace," Walzer contends, "goes beyond the ideas of Plato and Aristotle, both of whom were content to aim at peace among Greeks only."[393] Walzer also notes that while for

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states). See Richard Walzer, *On the Perfect State (Mabādī ārāʾ ahl al-madīnat al-fāḍilah of Abū Naṣr al-Fārābī)*, 257-258.

[390] For more details see Majid Khadduri, *War and Peace in the Law of Islam*, (Baltimore: The Johns Hopkins Press, 1955); it is al-Shāfiʿī (d.803) who adds the third category (*dār al-ʿahd*).

[391] Many authors have attributed the lack of the development of an Islamic international law to this factor. See, for example, Bassam Tibi, "War and Peace in Islam," in *The Ethics of War and Peace, Religious and Secular Perspectives*, ed. Terry Nardin (Princeton, N.J.: Princeton University Press, 1996) 15.

[392] Al-Fārābī, *On Civil Government*, 155.

[393] Richard Walzer, *On the Perfect State (Mabādī ārāʾ ahl al-madīnat al-fāḍilah of Abū Naṣr al-Fārābī)*, *Revised Text with Introduction, Translation, and Commentary*, (Chicago: Great Books of the Islamic World Inc., Oxford University Press, 1998) 497. For details of Plato's view about war ethics see his chapter on Usages of War where the whole world beyond the Greek borders of *Hellas* is considered 'enemy.' See Plato, *The Republic*, Francis MacDonald Cornford trans. and ed. (New York and London: Oxford University Press, Twenty-Eight printing, 1965) Chapter XVII, v.466 d-471 c, pp. 168-174.

both Plato and Aristotle, the perfect-state is limited to 'city-state,' al-Fārābī, expands the notion not only to 'nation- states,' but even to a universal world-state."[394] The universal state however, does not preclude the possibility of several perfect states. In al-Fārābī's own words, "...it is possible that excellent nations and excellent cities exist whose religions differ, although they all have as their goal one and the same felicity and the very same aims."[395]

The ultimate goal for al-Fārābī's ideal city-state is the attainment of 'happiness,' which is achieved by replacing the intentional and non-intentional evil with the intentional and natural good.[396] Importantly, it is in this formulation that al-Fārābī, according to Goodman, adopts Aristotle's view about the natural supremacy of the civilized, and "justifies aggressive warfare."[397] In al-Fārābī's own words, the superior state may conquer nations and cities that do not submit to doing what will give them the happiness man is made to acquire....the warrior who pursues this purpose is the just warrior.[398]

In his 'The Book of Aphorisms of the Statesman (*Fuṣūl al-Madanī*),' there are references to eleven types of warfare: they include those waged for defense, acquiring a good the city deserves, reforming others, subjecting those suited for it, taking back what is rightfully the city's, punitive, deterrent, and war of extermination. Al-Fārābī also recognizes four kind of unjust war (*ḥarb jawr*) as the following: "Bellicose actions undertaken for the sake of the ruler's increasing honor or self-aggrandizement, pure conquest, venting of rage or achieving some other pleasure through victory, and

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[394] Richard Walzer, *On the Perfect State (Mabādī ārā' ahl al-madīnat al-fāḍila of Abū Naṣr al-Fārābī)* 430.

[395] Richard Walzer, *On the Perfect State (Mabādī ārā' ahl al-madīnat al-fāḍila of Abū Naṣr al-Fārābī)*, 281.

[396] Al-Fārābī, *On Civil Government*, 163.

[397] Goodman, *Islamic Humanism*, 9.

[398] Al-Fārābī in *Fī Taḥṣil al-Sa 'āda*, quoted in Goodman, *Islamic Humanism*, 37; See also Butterworth, "Al-Fārābī's Statecraft." Majid Falhri also asserts that for Al-Fārābī, "justice is identified with conquest, and the duty of the just man is said to consist, as Thraysymachos has put it in *Republic I*, 337D, in "doing what is most advantageous to the conqueror" so that the subjugation (*isti 'bād*) of the conquered by the conqueror is regarded as eminently just." See Fakhry, *Ethical Theories in Islam*, 84.

overreaction to an injustice committed by others." Little reference is made to jihād in these formulations.[399]

Although al-Farābī's argument justifies offensive war, it is important to note, and as Goodman asserts, that "the argument does not entail, indeed does not allow, mere military self-assertion: it justifies offensive warfare, but only on behalf of civilizing ends."[400] Butterworth similarly notes:

> In the Aphorism, by referring to the ruler's or rulers' warring capability in terms derived from the word jihād, he underlines that the only kind of warfare such a ruler or rulers may reasonably resort to is warfare that serves the virtuous city. In the virtuous city, however where the exceptional moral qualities of the ruler or rulers are more clearly stated, he eschews such usage.[401]

For al-Farābī, jihād is as generic as slavery is for Aristotle; it simply takes a just prophet/legist to legitimize it.

Within al-Farābī's work are also clear references to the use of force in the management of the 'ideal-city' against uncivilized minorities who act like "weeds" or "animals." According to him, these types of people deserve to be fully exploited, or "if they are like harmful animals, they should be treated in that manner" as well.[402] These are rather harsh measures, however again their application rests on the presence and judgment of the just ruler.

Opposite the virtuous city-state, as al-Farābī suggests, are other states that range from less-than-perfect to the thoroughly evil. Under the rubric of the ignorant city (*jāhiliyya*) are the city of honor (*kirāma*), the necessity city (*darūriyya*), the city of depravity (*khissa*), the city of domination (*taghallub*), the city of meanness (*nadhāla*), and the city of the unbridled masses (*jamā'iyya or hurriyya*). In addition, there are the erring city (*zālla*), the corrupt city (*fāsiqa*), and the changing city (*mubaddila*). In

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[399] Butterworth, "Al-Farābī's Statecraft," 85-7.

[400] Goodman, *Islamic Humanism*, 9.

[401] Butterworth, "Al-Farābī's Statecraft," 94.

[402] Al-Farābī, *On Civil Government*, 169.

131

contrast to the ignorant cities, the main difference between these cities is that the latter group is consciously in error.[403]

Al-Fārābī's dominant city, whose citizens' main drive in life is to rule over others, whether compatriots or aliens, by force or through trickery and deceit has particular relevance to this study.[404] According to al-Fārābī, among the citizens of this city are those who have a "lust for the use of force" in a way that "they even refrain to kill their subjects when they are sleeping, not for chivalric concerns, but to wake their victims up and kill them against their resistance just to maximize their joy."[405] Al-Fārābī delineates here three types of inclinations among the users of force: first, those who use force for the very sake of it (no secondary motive), second, those who use force for other excessive materialistic gains, and third those who stop using force once they fulfill their moderate needs.[406] Such a categorization ascribes little ethical value to acquisitive wars. In the same way, modern critiques of just war criticize the moral foundations of colonial wars.

Al-Fārābī rejects the notion that any kind of imperfect state can be reformed by force. In Walzer's words "He rejects every form of violence and puts his trust rather in education through philosophy."[407]

Close to the end of *On Civil Government*, al-Fārābī considers the matters of war and peace from an important psychological angle that will be essential in dealing with the views of his philosopher successors. This draws from the Platonic notion of the trichotomy of the soul, a premise that is accepted unanimously by all of the Islamic philosophers of ethics. According to this principle, the human soul is made of three essential faculties: namely, the irascible or appetitive (*ghaḍabiyya*), the concupiscent

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[403] Al-Fārābī, *On Civil Government*, 170. Also see Richard Walzer, *On the Perfect State* (*Mabādī arā' ahl al-madīnat al-fāḍila of Abū Naṣr al-Fārābī*), 454.

[404] Al-Fārābī, *On Civil Government*, 181.

[405] Al-Fārābī, *On Civil Government*, 181.

[406] Al-Fārābī, *On Civil Government*, 182-83.

[407] Richard Walzer, *On the Perfect State* (*Mabādī arā' ahl al-madīnat al-fāḍila of Abū Naṣr al-Fārābī*) 451.

(*shahawiyya*), and the spirited or rational (*'aqliyya*). In accordance with Aristotelian ethics, Fārābī determines four cardinal virtues that can control and manage all parts of the soul and bring them to moderation; these virtues are temperance, courage and reason, corresponding with irascible, concupiscence, and rational faculties, and the sum of all virtues (or the most perfect virtue), which is justice.[408] As Fakhry asserts "the two moral virtues which figure most prominently in al-Farābī's discussion are friendship (*mahabba*) and justice (*'adāla*)."[409]

In fact al-Farābī seems to agree with the Aristotelian conviction that one may dispense with justice in a society that is established on friendship. The vices that are opposite to friendship are animosity and hatred, and these establish the psychological motives for war.[410]

Looking at war from a psychological perspective, al-Fārābī suggests that groups of people or the entire population of some city-states lose their rational faculty in the service of their irascible senses (that of wrath and force), and then all faculties ultimately in the service of their concupiscent soul (the animalistic, whimsical, lascivious urges).[411]

This again is a reference to the power of vices, for example, in anger leading to oppression, and also war an instrument to reach material joy; these vices reflect a general social immoral trend, that in Fārābī's view, is found mostly among the nomadic Arab and Turkish tribal societies.[412] Therefore, Fārābī concludes that such tendencies

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[408] Aristotle. *The Nicomachean Ethics.* 2nd ed. Translated by Terence Irwin. (Indianapolis: Hackett Publishing Company, 1999) 1129b -1130a, p.69

[409] Majid Fakhry, *Ethical Theories in Islam* (Lieden, New York: E.J. Brill, 1991) 83.

[410] Fakhry, *Ethical Theories in Islam*; this point is also well developed in Aristotle's *The Nicomachean Ethics.*

[411] This point was also mentioned by Abū Bakr al-Rāzī (d. ca.925 CE) an outstanding Platonist of Islam in reference to Alexander the Great. In the words of Majid Fakhry, Rāzī maintained in his work *Rasāil Falsafiyya,* "the defect of the irascible is to fail to curb the appetitive soul (concupiscence), whereas its excess is to be puffed up by pride and the lust for conquest, as illustrated by the case of Alexander the Great." From Fakhry, *Ethical Theories in Islam,* 83.

[412] Al-Fārābi, *On Civil Government,* 194.

133

have something to do with the socio-economic lifestyle of those societies, in which lust and force are the main drives.

It is important to note that the psychological analysis of Fārābī had major influence on all his followers and major ethics philosophers of the Islamic world; for example, other philosophers like al-Ghazālī, Ibn Miskawayh, and Ṭūsī have incorporated al-Fārābī's moral-emotional paradigm.

As pointed out by Fakhry, al-Fārābī's view of justice can be divided into two spheres: domestic and foreign. The concept of domestic justice relates to overall intra-societal relations, including economic justice in the distribution of goods and services and honors, and the justice of maintenance that is primarily protective in all walks of life. Justice in foreign relations is divided into defensive justice, that is to ward off aggression, and offensive justice, that is to do what is advantageous to the conqueror (in undoing a previous injustice).[413] Such categorization is reflective of the fact that al-Fārābī combines the Platonic view of justice which is of an inward, domestic essence (psychic harmony), and the Aristotelian outward, foreign, 'common justice.'[414]

Al-Fārābī's views here runs counter to those held by jurists of his time. When it comes to the eradication of the 'useless' domestic classes, al-Fārābī holds a severe position, however this severity is absent in his views of external relations.

Notably, al-Fārābī's head of the state, namely the philosopher-king, or the king-prophet, follows an objective justice that is in full accord with both human objective reason and prophetic revelation. There is no difference in al-Fārābī's opinion between the non-Islamic and the Islamic virtuous ruler and, between the non-Muslim and the Muslim virtuous warrior because the logic of virtue is universal.[415]

Several specific factors present among the Aristotelian principles of the al-Fārābī's philosophical thinking by implication have limiting and mitigating effects on war. Evil, according to this philosophy, is non-existent (it does not have a positive

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[413] Fakhry, *Ethical Theories in Islam*, 84-5.

[414] Fakhry, *Ethical Theories in Islam*, 89.

[415] Butterworth, "Al-Fārābī's Statecraft," 87.

presence) and therefore it can not be the object of any ideological war.[416] Reason, controls anger and violence as features of the irascible soul. Justice controls all excesses. Both senses of reason and justice, according to this philosophy have objective bases shared among all mankind. It is only safe to conclude that in a world when all nations have the same concept of reason, irrationality, justice, injustice, aggression, transgression and evil, there are less ground for ideological wars than where evil has a positive existence (defined in international realm as positive threat) and reason and justice are subjective based merely on interpretive scriptural norms (as the Ash 'rite theologians believed). It is this latter situation that positive threat (evil) and subjective reason and justice combined open the way for authoritarian voluntarism.

Al-Fārābī seems to be very conscious of the terms he uses and the potentials for many terminological abuses by others. As Butterworth asserts: in *al-Madina al-Fāḍila*, "Fārābī does not talk about jihād but only of ḥarb." Therefore, "he is extremely reluctant to declare it ever just to wage war upon others and that he does not rigidly distinguish between the term for war (*ḥarb*) generally and the term for war usually considered to be in defense of Islam, jihād."[417]

To sum up, according to al-Fārābī, wars are two kinds: evil wars, motivated by moral defects and vices, and just wars, prompted by the need to protect or restore a just status. There is no mention of holy wars or religious offensive wars whatsoever. The fact that he distinguishes various perfect states bears witness to his pluralistic view of the political world. Political diversity is not just a temporary imperfect stage in history.

Ibn Miskawayh: The Philosopher of Intimacy (*uns*)

It was Aḥmad Ibn Miskawayh (d. 1030 CE) who inherited al-Fārābī's legacy on ethics and brought philosophic ethics to its peak in his *Tahdhīb al-Akhlāq* (Purity of

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[416] According to most of the Islamic philosophers such as Ibn Sīnā and others, evil is the lack of good or perfection, or in Fakhry's words, "evil, as a 'cosmic' entity, is entirely non-existent." See Fakhry, *Ethical Theories in Islam*, 85. Also See *The Greater Encyclopedia of Islam*, s.v. "Ibn Sīnā" by Sharafuddin Khorāsānī, Tehran.

[417] Butterworth, "Al-Fārābī's Statecraft," 92-3.

Dispositions). Miskawayh, like al-Fārābī and the Brethren of Purity (Ikhwān al-Ṣafā), was of Shī'ite inclination.[418] His significant achievement in *Tahdhīb* was that he synthesized Islamic ethos with Greek philosophical precepts,[419] the pre-Islamic Persian *adab* literature, and Indian moral views; in his work he weaves them into a unified, consistent and systematic moral structure. Ibn Miskawayh did not expand his synthesis to political ethics or philosophy; nevertheless his views on the essence of friendship and humanity's sociability have important implications for war and peace.

According to Goodman, Ibn Miskawayh shares with Ibn 'Adī (d. 974 CE)[420] the view that a chief goal of ethics is control of our natural irascibility, allowing our deeper unity to surface in acts of love and compassion.[421] Notably, he also shares with Ibn 'Adī the view that the aim underlying the commands and admonitions of scripture is the refinement of character; importantly, the directives regarding character become a significant leaven to the legalism and legal positivism that often dictates scriptural ethical thinking.[422]

For Ibn Miskawayh, friendship, following Aristotle, has greater stature than the source of all virtues, justice. It is not merely a virtue; rather, it distinguishes the very humanity of human beings. Ibn Miskawayh points out that *insān*, the very name of the human being in Arabic, derives from root for *uns*, meaning intimacy, or in the words of Fakhry, 'gregariousness.'[423] According to Fakhry, "Ibn Miskawayh insists that man's supreme happiness cannot be achieved without the fellowship of friends and associates,

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[418] Goodman, *Islamic Humanism*, 102.

[419] Miskawayh explains that Greek ethics is more in accord with Islamic teachings than is pre-Islamic Arab morality. See Masud, "The Scope of Pluralism," 139.

[420] There is nothing much, to the best of my knowledge, in Ibn 'Adī's works that can relate to war.

[421] Goodman, *Islamic Humanism*, 105; cf. Al-Fārābī, *On Civil Government*, 77-80; cf. Richard Walzer, *Greek into Arabic: Essays on Islamic Philosophy* (Oxford: B. Cassirer, 1962) 33, 222; cf. Richard Walzer, *On the Perfect State* (*Mabānī Arā'i Ahli Madīnat al-Faḍila*) (Oxford: 1985) 482-84.

[422] Goodman, *Islamic Humanism*, 105.

[423] Fakhry, *Ethical Theories in Islam*, 118.

for being a 'political animal' by nature, he could not fulfill himself in solitude."[424] In this theoretical scheme, religious law devises even public worship to foster human fellowship. Ibn Miskawayh makes humanity (*al-insāniyya*) the goal of ethics, to be achieved through the perfection of our identity (*dhāt*) as human beings.[425]

One may infer that war-mongering must be, in Ibn Miskawayh's opinion, the source of all vices, as it is contrary not only to human beings, but also the humanity at large. He States:

> Recklessness and cowardice, like courage, are grounded in the irascible power of the soul; when it is over stimulated by anger, or the desire for vengeance. Passionate anger and arrogance are the principal causes of oppression and other social ills, and the essence of arrogance is a false opinion of one's self, as deserving a higher rank than the one it has earned.[426]

Only through reason one can control his irascible faculty and therefore his arrogance. Yet for Ibn Miskawayh, reason is a natural and objective reason not subject to the legalistic interpretation. He offers as support a Mu'tazili reading of a familiar oath from the Qur'ān: 'By the soul and that which shaped it and breathed into it its wickedness and impiety.'

For Ibn Miskawayh, "*adab* is the content of wisdom and knowledge, tested by experience about the good life and its means of attainment; importantly, without this experience reason is not reason."[427] Culture, Ibn Miskawayh argues, makes the man.[428] Additionally, in his interpretation culture (*adab*) is not external, but organic to morals.[429] In other words, the manner in which one carries out an ethical act is at least

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[424] Fakhry, *Ethical Theories in Islam*, 118.

[425] Goodman, *Islamic Humanism*, 111.

[426] Quotations from *Tahdhīb al-Akhlāq wa Ṭahārat al-A'rāq* by Fakhry, *Ethical Theories in Islam*, 126.

[427] Goodman, *Islamic Humanism*, 108.

[428] Goodman, *Islamic Humanism*, 110.

[429] Goodman, *Islamic Humanism*, 110.

as important as the outcome of that act. This parallels the standard relation of the means and the ends. One can thus conclude that Ibn Miskawayh believes that the ends can not justify the means. Goodman states that "unlike Marx, or even Plato in some moods, but like the scriptural ethics of Judaism and Christianity, the Qur'ānic ethics do not countenance breach of its standards in pursuit of its aims."[430] For Ibn Miskawayh, it is through *adab* founded on objective reason that one is able to have an accurate self-image, and by implication, an image of 'others' (as equals), and thus able to avoid war and conflict.

Al-Ghazālī: a Dual Approach to 'Others'

Abū Hāmid al-Ghazālī (d. 505 AH/1111 CE), unlike some of our other philosophers was not a Shī'ite, however as an Ash'arite al-Shāfi'ī, he tried to synthesize philosophic ethics with *Sharī'a* law and mysticism. By adopting some Platonic and Aristotelian ethical concepts, he redefined some of their standard notions that were reintroduced by al-Fārābī and Ibn Miskawayh, as has been discussed previously. Importantly, al-Ghazālī fills the gap created by a major theological rift between the Shī'ī / Mu'tazilī / Greek philosophy on the one hand, and the Sunnī/Ash'arī/ Shāfi'ī tendencies on the other. For example, al-Ghazālī adopted Aristotle's concept of the rational 'mean' in determining the optimum ethical position of a virtue between the two extremes,[431] however, he applied the Qur'ānic notion of the 'straight path' (*al-ṣirāṭ al-mustaqīm*) in order to identify it as Islamic. Instead of relying solely on reason as a moral standard like other philosophers, al-Ghazālī asserted the need for both divine guidance and reason.[432]

Al-Ghazālī defines three domains for justice: the political, moral, and economic. Like Greek philosophy, he believes justice is a paramount virtue, though in his 'Mirrors of Princes' (*Naṣīhat al-Mulūk*), he prefers an unjust ruler to civil disorder. Justice looses its primacy when social stability is threatened. The source of all vices lie in worldly

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[430] Goodman, *Islamic Humanism*, 88.

[431] For example, courage as a virtue is the moral mean between the two extremes of this virtue namely, recklessness and cowardice.

[432] Fakhry, *Ethical Theories in Islam*, 199.

138

pleasures derived from a list of eight main pleasures enumerated by the fourth Caliph 'Alī Ibn Abī Ṭālib.[433] Among them are 'social or political' pleasures, such as the lust for conquest or social position.[434] In this way, he condemns many kinds of war pursued outside of *sharī'a*. According to Hourani, al-Ghazālī does not deviate from the view: "killing is not evil when it is punishment for crime, or when the victim is to be compensated in the next life."[435] But he condemns all extremes. He dedicates a quarter of his main moral work *Iḥyā' 'Ulūm al-Dīn*, to the pathology of vices, *the quarter on perilous vices (rub'i muhlikāt),* where a full chapter treats wrath (*al-ghaḍab*), rancor (*al-intiqām*) and jealousy (*al-ḥasad*). Al-Ghazālī asserts that the surest moral position is the mean between the extremes. However, he adds, while moderate measures of anger (*al-ghaḍab*) or use of force (*al-'unf*) are necessity on their appropriate situation, self-control (*al-ḥilm*), forgiveness (*al-'afw*), clemency or condone (*al-ṣafḥ*), and soft-attitude (*layyīn*) are further emphasized because of the natural inclination of man towards roughness.[436] The best use of anger for Ghazālī however is not against others but in an esoteric sense against the self in containing the personal lasciviousness (*al-shahwa*). But then the virtue of self-control (*ḥilm*) must be used to check anger against others.[437] Goodman notes: "*Ḥilm* is a crucial virtue for al-Ghazālī as for Ibn Miskawayh and ibn 'Adi because it offers control of anger."[438]

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[433] These pleasures are: eating, drinking, sex, attire, habitation, smell, hearing and sight. From Fakhry, *Ethical Theories in Islam*, 201.

[434] Fakhry, *Ethical Theories in Islam*, 201; al-Ghazālī's views on positive law in reflected in his monumental book *Iḥyā' 'Ulūm al-Dīn*. His philosophic views on theory of ethics are mostly written in *Mīzān al-'Amal*.

[435] Hourani, *Reason and Tradition in Islamic Ethics*, 155.

[436] Abū Ḥāmid Moḥammad Al-Ghazālī, *Iḥyā' 'Ulūm al-Dīn, Rub'i Muhlikāt,* Translated by Mo'ayyid al-Din Khwarazmī, Edited by Husayn Khadīv Jam, (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1374/1975) 383.

[437] Al-Ghazālī, *Iḥyā' 'Ulūm al-Dīn, Rub'i Muhlikāt,* (1975) 363.

[438] Goodman, *Islamic Humanism*, 117. Also see Abū Ḥāmid Moḥammad Al-Ghazālī, *Iḥyā' 'Ulūm al-Dīn, Rub'i Muhlikāt,* Translated by Mo'ayyid al-Din Khwarazmī, Edited by Husayn Khadīv Jam, (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1374/1975) 363-370.

It is very important to note that this chapter (of *al-Iḥyā'*) is rich with so many of Prophetic and other traditions which, covey, more or less, two essential points: That there must be no retaliation in kind against vices committed by transgressors, such as cursing, vituperation (*sabb*), backbiting (*al-ghība*) and snooping (*tajassus*), and that measures of self-control vis-a-vis such vices will be rewarded here and hereafter. A Prophetic tradition transmitted by 'Uqbat Ibn 'Āmir and narrated by Al-Ghazāli reflects the above points:

> I heard from the Prophet, said 'Uqbat Ibn 'Āmir that, "*yā 'Uqba, alā ukhbiruka bi afḍali akhlāqi ahli al-dunyā wa'l ākhira? Taṣil man qaṭa'aka wa tu'ṭi man ḥaramaka wa ta'fū 'amman ẓalamaka* (Oh 'Uqba, shall I inform you of the best morality of both worlds? It is, to rejoin whoever that disconnected from you, to give to whomever who deprived you, and to forgive whomever who transgressed against you)."[439]

From this and many other traditions and Qur'ānic references made by al-Ghazāli along similar moral lines, one may conclude that the non-confrontational, non-reciprocal tendencies are very important part of the backbone of the Islamic moral structure. It is hardly concievable that the same moral system suddenly and inconsistently changes its attitudes just when it reaches the state's border. War and use of force therfore must remain as the last resort within this tradition.

Al-Ghazāli's more detailed views on war appear in the second chapter of his *Book of Counsel for Kings* (*Naṣīḥat al-Mulūk*), where he discusses the functions of the minister, or *vizier*. He specifically mentions that the 'worst minister' is the one who encourages his master (king) to wage a war where it is avoidable, and the goal could be achieved by other means. He also stresses that while the enemy is defeated during the war, the victors must not hasten to kill them for they (the enemy subjects) too were courageous men. "It is possible to kill the living," al-Ghazāli stresses, "but impossible to bring the dead back to life."[440] He recommends that it is a minister's duty that once a soldier becomes captive, he (the minister) must promptly arrange for his freedom by

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[439] Al-Ghazāli, *Iḥyā' 'Ulūm al-Dīn, Rub'i Muhlikāt*, (1975) 375.

[440] Paraphrased from Charles-Henri de Fouchécour, *Moralia: Les Notion Morales dans la Litterature Persan* (in Persian) (Tehran: The University Press of Iran, 1998) 552-53.

ransom so that other soldiers have firm hope in their hearts.[441] These assertions show that al-Ghazālī was fully supportive of what nowadays is called 'war as a last resort.' His concerns for the fate of the prisoners of war on both sides of the battle (in theory the Islamic versus the infidel forces), places him on the humanist side of war ethics that deals with *jus in bello*. Al-Ghazālī distances himself from some of his contemporary jurists, whose literal approaches to scripture and ḥadīth, as will be discussed in Chapter Four, were detrimental to the unfortunate fate of the prisoners.

On a deeper level of philosophical analysis however, a major question remains: What was al-Ghazālī's view of 'Others?' It is this specific notion that determines the foundation of one's attitude towards wars in physical or non-physical realms. Here al-Ghazālī has a dual approach. In a book written for the caliph al-Mustaẓhar Billāh (d. 487AH/1094 CE) and at the latter's request, named *Al-Mustaẓharī*, he becomes quite militant in condemnation of the Bāṭinīs (the Ismāʿīlī Shīʿites).[442] Chapter eight of *Al-Mustaẓharī* is entirely focused on the rule of *Sharīʿa* law on charges of unbelief (*takfīr*) and the corresponding punitive measures which could be as severe as execution.[443] Later on however, in accordance to his tendency at the end of his life to stay aloof from politics, he changes his radical views on other faiths and sects, cuts his previous view of 'others' short, and accepts that people of other ideological and theological orientations may well reach salvation. This view is well developed in his book *On the Boundaries of Theological Tolerance in Islam (Fayṣal al-Tafriqa bayn al-Islām wa'l-Zandaqa)* where he

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[441] Paraphrased from de Fouchécour, *Moralia*, 553.

[442] Hodgson maintains that al-Ghazālī refuted the Ismāʿīlīs over and over because, "he found something in their position to be persuasive." In Hodgson's view the role of the Ṣūfi in validating a kerygmatic, historical vision and his mystical role is not far from the role of Imam in the Ismaʿīlī theology. See Marshall G. S. Hodgson. *The Venture of Islam, Conscience and History in a World Civilization (Volume 2: The Expansion of Islam in the middle period)*, (Chicago and London: The University of Chicago Press, 1974) 184-5.

[443] The range of various sects that al-Ghazālī condemns to infidelity include: Baṭiniyya, Qarāmita, Qarmatiyya, Khorramiyya, Khorramdiniyya, Bābakiyya, Ismāʿīliyya, Shīʿiyya, Taʿlimiyya, and ʿAmara. See Abū Ḥāmid, Al-Ghazāli, *Al-Mustaẓharī fi Faḍāʾiḥ al-Bāṭiniyya wa Faḍāʾil al-Mustaẓhariyya*, (Leiden: E.J. Brill, 1916) 146-168.

drops his previous radical positions.[444] This later opinion of 'Others' of course was in much better harmony with his esoteric and mystical view that looked at one's own carnal soul as the number-one enemy.

The moderation of al-Ghazāli's position toward 'Others' follows from his revision of his judgment of those 'saved' (*al-nājiya*) and those condemned to eternal Hellfire.[445] He broadened the categories of believers eligible for salvation and, by the same token, reduced the categories of 'infidels' punished in Hell. Only those people who had full and authentic information about Islam yet failed to believe in what he considered the three main cardinal principles of Islam, namely the unity of God, the prophethood of Muḥammad, and the existence of the Day of Judgment, were condemned. Those who misperceived or erred in their faith could claim a measure of salvation as long as they did not attribute lying to the Prophet and do not expose the contenders to unbelief (*kufr*).[446] Al-Ghazāli frequently warned against the hasty and unscrupulous condemnation of people. He questioned the jurist's self-proclaimed authority to distinguish between the unfaithful and the believer. He asked:

> "…how could the jurists, purely on the basis of his mastery of Islamic law (*fiqh*), assume this enormous task?" "In what branch of the law does he encounter the skill and sciences (necessary to distinguish between belief and unbelief)," Ghazāli questions."[447]

Turning to the theologians, he raises the same question: "Why should one of these parties (Mu 'tazila or 'Ashā 'ira) enjoy a monopoly over truth to the exclusion of the other?"[448]

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[96] Abū Ḥamid, Al-Ghazāli, *On the Boundaries of Theological Tolerance in Islam* (*Faysal al-Tafriqah bayn al-Islam wa'l-Zandaqa*), trans. Sherman A. Jackson., (Oxford University Press, Karachi, 2002).

[445] Al-Ghazāli, *On the Boundaries of Theological Tolerance in Islam*, 125.

[446] Al-Ghazāli, *On the Boundaries of Theological Tolerance in Islam*, 112.

[447] Al-Ghazāli, *On the Boundaries of Theological Tolerance in Islam*, 120.

[448] Al-Ghazāli, *On the Boundaries of Theological Tolerance in Islam*, 89.

Within the above context, what is most relevant to our subject matter is al-Ghazālī's stress, in his own words, that "most of the Christians of Byzantium and the Turks of this age will be covered by God's mercy."[449] This last position has important implications for the just cause of war, for in theory it deprives the military authorities from a well-founded religious ground for declaring jihād against an enemy that is innocently ignorant about Islam. In fact al-Ghazālī's most militant position in the *Faysal al-Tafriqa* turns not to be against the infidel aliens but against some of the philosophers, theologians and ṣūfis.

One may conclude that al-Ghazālī is politically a realist. Initially, war in the hands of the ruler does not need justification; it is a matter of his discretion. This is tantamount, in modern parlance, to military realism, which is decidedly more radical than the theory of the 'just war.' However, al-Ghazālī became a pluralist in the last years of his life. The mystical interpretation of Islam came to have precedence over all other views. According to Goodman, he is "far more interested in the spiritual and moral struggle for self-conquest than in the worldly struggle for dominion-even in the name of his faith."[450] Some of al-Ghazālī's views, as discussed, may have been inconsistent, but the evolution of his views brought him, increasingly, from a battle with the 'others' to a battle with the 'self,' a change indeed very consistent with aging and political maturity.

Naṣir al-Dīn Ṭūsī and Political Ethics

The Shī'ite Naṣīr al-Dīn Ṭūsī (d. 1274 CE) largely followed Ibn Miskawayh's steps. However, he developed his own moral philosophy, known as the *Nāsirī Ethics* (*Akhlāq-e Nāsirī*). Ṭūsī was in full agreement with his predecessors on the importance of friendship and love as a cardinal virtue: he claimed "what holds people together and welds them into a single community is the bond of love. This bond, grounded in natural union, is

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[449] Al-Ghazālī, *On the Boundaries of Theological Tolerance in Islam*, 126.

[450] Goodman, *Islamic Humanism*, 16.

superior to justice, which is grounded in artificial union, and only where love is wanting, does the need for justice arise."[451]

Al-Ṭūsī's main contribution to ethics is his work regarding politics, namely in his discussion of 'the management of states' (*tadbīr mudun*). When he describes the five classes making up the 'virtuous' city, he refers to the fourth as the 'holy warriors,'[452] who defend the city's ramparts against the aggression of non-virtuous cities. Noticeably, there is no reference whatsoever to primary (offensive/expansionist) war in his definition of holy war. Majid Fakhry emphatically states that war for Ṭūsī is only self-defense, and that in such a case war must be the last resort.[453] Ṭūsi, however, discusses situations when diplomacy has already failed, and the ruler is compelled to initiate hostilities for the sake of the pure good and the quest of religion.[454] The vague quality of terms like 'good' and 'quest' opens various ways for war initiation. This takes Ṭūsī farther from 'just war theories' and brings him close - in modern parlance - to the realism. These are categories to be mentioned in the next chapter. Importantly, Ṭūsī's view is an example of the ideology of war which sees war, in a practical sense, as a last resort; therefore, his war ethics reflect a realist outlook towards the enemy.

Apart from the question of the cause or causes of war, Ṭūsī has clear advices on the moral conduct of war in a chapter on 'The Conduct of Kings,' (*Sīrat-e Molūk* in Persian) known as the genre of 'mirrors of princes.' He recommends that while in war, "no effort should be spared to capture the enemy's warriors alive rather than killing them, for there are lots of benefits in prisoners of war, like receiving ransom, or exchanging him with the captured friends, or release them and make them morally indebted. There is no benefit whatsoever in killing them."[455] Ṭūsī adds: "There must be,

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[451] Naṣīr al-Dīn Ṭūsī, *Akhlāq-e Nāsirī,* ed. Ali Asqar (Tabriz: Dār as-Saltaneh, 1320 AH) 310. Also look at: Fakhry, *Ethical Theories in Islam*, 138.

[452] Fakhry, *Ethical Theories in Islam*, 139.

[453] Fakhry, *Ethical Theories in Islam*, 142.

[454] Fakhry, *Ethical Theories in Islam*, 142.

[455] Ṭūsī, *Akhlāq-e Nāsirī,* 376.

of course, no murder after achieving victory over the enemy, nor subjecting them to any prejudice, for the defeated subjects would be tantamount to slaves and subordinates."[456] In the closing part of this section Ṭūsī refers to a war ethics legend attributed to Alexander the Great and Aristotle who was his teacher. The legend claims that when Aristotle learned that Alexander was killing residents of an already defeated and surrounded city, he (Aristotle) critically questioned such behavior and reminded Alexander that forgiveness as a virtue was expected from the kings much more than from the commoners.[457]

Ṣūfism: Against War For Belief

It was al-Ghazālī who launched the first major criticism of philosophers from a position of mysticism. His own posture vis-à-vis the domain of unbelief (*kufr*), as already discussed became more moderate as he became more tolerant of other sects and faiths. It seems therefore, that there was, at least in the case of al-Ghazālī, some correlation between mystical convictions and religious tolerance. This inference may be examined for other major Ṣūfi thinkers

Ibn al-'Arabī: The Primacy of Mercy

Muḥya al-Dīn Ibn al-'Arabī (d.1240 CE), known as al-Shaykh al-Akbar or the 'Greatest Master', is undoubtedly the father of theoretical Ṣūfism in Islam. Religious pluralism is an integral part of his theories. Such a pluralistic world view, of course by definition and implication oppose war on the basis of belief. As Chittick has noted, Ibn al-'Arabī looks at Islam not in contrast and conflict with other religions. He rather, conveys how all religions are not in competition with each other by using the metaphor that all religions are like stars in the universe with no conflict. He states:

"all the revealed religions (*sharāyi'*, Arabic plural for *sharī'a*) are lights. Among these religions, the revealed religion of Muḥammad is like the light of the sun among the

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[456] Ṭūsī, *Akhlāq-e Nāsirī*, 376.

[457] Ṭūsī, *Akhlāq-e Nāsirī*, 376-77.

145

lights of the stars. When the sun appears, the lights of the stars are hidden, and their lights are included in the light of the sun."[458]

For Ibn al-'Arabī, the abrogation of other religions is no more than the hiding of stars in the presence of the sun; he says, "This explains why we have been required in our all-inclusive religion to have faith in the truth of all the messengers and all the revealed religions. They are not rendered null (*bāṭil*) by abrogation--that is the opinion of the Ignorant."[459] He goes further by stressing on the one hand, the necessity of every individual's distinctive and unique belief, and on the other hand their imperfect understanding of things (*i'tiqād*). According to Chittick, as the word *i'tiqād* literally means 'to tie a knot',[460] he suggests that Ibn 'Arabī views the various beliefs of people resembling imperfect knots in existence (*wujūd*). In other words, all personal beliefs are imperfect but they are so within a necessary diversity similar to the pieces of a puzzle. Ibn 'Arabī states:

> Beware of becoming delimited by a specific knotting and disbelieving in everything else, lest great good escape you...Be in yourself a matter for the forms of all beliefs, for God is wider and more tremendous than that He should be constricted by one knotting rather than another.[461]

Ibn al-'Arabī constructs a universal concept of divine 'mercy' and 'wrath' related to peace and war on the basis of a proverbial Prophetic ḥadīth:

"Oh He whose mercy takes precedence over His wrath (يا من سبق رحمته غضبه)."[462]

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[458] William, Chittick. *The Imaginal Worlds: Ibn al- 'Arabī and the Problem of Religious Diversity* (Albany: State University of New York Press, 1994) 125.

[459] Chittick, *The Imaginal Worlds*, 125.

[460] Chittick, *The Imaginal Worlds*, 164.

[461] Translated from *Fuṣūṣ al-Hikam* by Chittick in *The Imaginal Worlds*, 176.

[462] Translated by Chittick in *The Imaginal Worlds*, 176; the ḥadīth reads in Arabic: "*yā man sabaqa raḥmatahu ghaḍabahu.*"

146

Chittick explains how Ibn al-'Arabī, while accepting God's wrath as a necessity, for example, to implement justice (in concordance with Q.2:251[463]), stresses on the primacy of mercy.[464] Therefore, the peaceful symbiosis of various cultures, in Ibn al-'Arabī's world view is rooted in diversity and mercy both essential in the universal construct.

Rūmī: The Essential Inner War

Next to Ibn al-'Arabī, Jalāl al-Dīn Muḥammad Rūmī (d. 672 AH/1273 CE) is one of the most highly regarded figures in Ṣūfism, and therefore worth examining. With regards to war, Rūmī holds the following:

<div dir="rtl">

این جهان جنگ است چون کل بنگری   ذره با ذره چو دین با کافری

جنگ فعلی جنگ طبعی جنگ قول   در میان جزوها حربی است هول

پس بنای خلق بر اضداد بود   لاجرم ما جنگیم از ضر و سود

چونکه هر دم راه خود را میزنم   با دگر کس سازگاری چون کنم؟

موج لشکرهای احوالم ببین   هر یکی با دیگری در جنگ و کین

مینگر در خود چنین جنگی گران   پس چه مشغولی به جنگ دیگران؟

یا مگر زین جنگ حقت وا خرد   در جهان صلح یک رنگت برد

جنگ فعلی هست از جنگ نهان   زین تخالف آن تخالف را بدان

جنگها بین کان اصول صلحهاست   چون نبی که جنگ او بهر خداست

آن جهان جز باقی و آباد نیست   زانکه آن ترکیب از اضداد نیست

این تفانی از ضد آید ضد را   چون نباشد ضد نبود جز بقا

هست بیرنگی اصول رنگها   صلحها باشد اصول جنگها

</div>

All particles of this world are in war,[465]
just like the eternal battle between faith and infidelity
We can observe an awesome and ongoing battle between all particles of the universe:
war in deeds, war in natures, and war in words
The essence of man therefore is based on intrinsic controversies,
and war over loss and benefit has become inevitable.[466]
How can I be in peace with others,
When I am in war with myself[467]

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[463] Q.2:251: "...And if God had not repelled some men by others, the earth would have been corrupted..."

[464] Chittick relates the ḥadīth to other philosophical fields, in *The Imaginal Worlds*, 171.

[465] See Aristotle's reference to a similar statement by Heraclitus: "...all things come to be in struggle." Aristotle. *The Nicomachean Ethics*. 2nd ed. Translated by Terence Irwin. (Indianapolis: Hackett Publishing Company, 1999) 1155b, p.120.

[466] Richard Walzer traces the roots of this view in the Platonic literature that was elaborated by Al-Fārābī in *Mabādī ārā' ahl al-madīnat al-fāḍila*. See Richard Walzer, *On the Perfect State*, 482-83.

[467] Aristotle only finds vicious people to be in conflict with themselves. See Aristotle. *The Nicomachean Ethics*. 2nd ed. Translated by Terence Irwin, (Indianapolis: Hackett Publishing Company, 1999) 1166b, p.143.

See the wave of the armies of my moods,
How in war and revenge with each other they are.
If you are in such a full fledged war with yourself,
What is the logic of fighting with others?
Or perhaps, through this outer war God may want to take you,
To the world of pure peace
The current mundane wars, therefore, have resulted from the inner wars,
The outer controversy is born from the inner one
You may find certain wars that are the foundation of peaces,
Like the Prophetic wars that are in the way of God
The next world however is eternal and lively,
For that compound is not made of contradiction
The reason why we decease, is for living on controversy,
But once such contradictions vanish, the existence becomes eternal
The colorlessness (purity) is the foundation of all colors,
And peaces are the sources of wars.[468]

The views expressed here are deterministic; they present human beings as prey to the forces of nature. The very essence of the universe is based on conflict and this conflict, in Rūmī's view, is the ultimate driving force behind all beings. The ongoing conflict comes from the fact, that all the four elemental substances, namely water, fire, air, and soil, are in conflict.[469] This runs contrary to the view held by the philosopher Ibn Sīnā. He believed that the driving force of the universe and all therein was love.[470]

Rūmī's views about war, though philosophically deterministic, concur with a Qur'ānic verse asserting the necessity of war to eliminate the roots of corruption on earth.[471] He contends that wars may be a purifying process through which God takes human beings to the next world where there is no intrinsic conflict in its nature and substances. War therefore, may bring human beings eternal peace.

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[468] Mowlavī, (Rūmī) *Mathnavī-e Ma 'navī*, vol.6, 810-11.

[469] The extentions of this view into biology lead to the long-survived view that "war is in the blood." According to primatological findings of Sapolsky, "Some primate species, it turns out, are indeed simply violent or peaceful, with their behavior driven by their social structures and ecological settings. More important, however, some primate species can make peace despite violent traits that seem built into their natures." He further asserts that, "Contrary to what was believed just a few decades ago, humans are not "killer apes" destined for violent conflict, but can make their own history." See Robert. M. Sapolsky, "A Natural History of Peace," in From *Foreign Affairs*, January/February 2006.

[470] *The Greater Encyclopedia of Islam,* s.v. "Ibn Sina" by Fathollāh Mojtabā'ī.

[471] See Q. 2: 251, "…and if God had not repelled some men by others, the earth would have been corrupted."

Yet on another level, Rūmī is conscious and emphatically supportive of the just cause for war. First within the above lines, he questions how warriors engage in temporal battles when a more important esoteric battlefield exists within the soul of every individual. Elsewhere in *Mathnavī*, Rūmī refers to the story narrated by a zealous warrior named 'Abbādī (or perhaps a member of an Islamic sect in this name) who participated in seventy campaigns (*ghazw*s) with bare chest in hope of reaching martyrdom, but without success. Rūmī continues the story in 'Abbādī's words: "Once I did all that I could with no success, I turned to esoteric battle against my carnal soul," 'Abbādī narrates. "But as I was busy with the 'greater jihād (*jihād al-akbar*), I heard once again that the army drums are calling volunteers for a campaign; my carnal soul was moved and I desired to join." He continues: "But then I rebuked my soul and reminded myself that of course it is an easy way out through one strike, while people watch me in praise." 'Abbādī concludes: "It was then when I noticed the depth of my soul's hypocrisy." Rūmī refers to a couple of similar anecdotes, seriously questions the motives of the warriors and concludes with the following lines:

ای بسا خامی که ظاهر خونش ریخت   لیک نفس زنده آن جانب گریخت

آتش بشکست و ره زن زنده ماند   نفس زنده است ار چه مرکب خون فشاند

How so many immature there were,
who appeared having lost their blood for good cause,
While, their carnal souls escaped untamed
Their essences lost physical arms (their bodies),
however their innate carnal thieves lived on.[472]

Elsewhere Rūmī appreciates the importance of the legitimacy of war by depicting a heroic war scene where 'Alī Ibn Abī Ṭālib releases a defeated enemy just because the enemy angered the latter by spitting on him. 'Alī's reason for the chivalrous act was that his personal anger spoiled the pure religious motive for which 'Alī was originally fighting.[473]

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[472] Mowlavī (Rūmī), *Mathnavī-e Ma 'navī*, vol.5, 787-88.

[473] Mowlavī (Rūmī), *Mathnavī-e Ma 'navī*, vol.5, 151-53. This story will be mentioned in details in Chapter Three.

Additionally, Rūmī comments on a prophetic legend, wherein the Prophet reminded Muslim warriors who were just returning from a jihād that the greater jihād (*jihād al-akbar*), consisting of fighting with the very inner carnal self, was still ahead:

ماند زو خصمی بدتر در اندرون   ای شهان کشتیم ما خصم برون
شیر باطن سخره خرگوش نیست   کشتن آن کار عقل و هوش نیست

Oh masters! We managed to destroy the outer enemy
But much worse lives inside
Killing the latter is impossible by wisdom and intellect
The lion of inner-self is not rabbit's game[474]

In his comments, Rūmī asserts that the second, greater struggle is indeed a much more important task than the first; to illustrate, he juxtaposes a mountain with a needle to explicate the enormity of the task: "it requires divine assistance to uproot the mountain of the 'self' with a small needle that is the only instrument available to humanity."[475]

In this way, the Ṣūfī must be permanently conscious that the 'Self' is by far a more dangerous enemy than the 'Other.' In theory, therefore it is hard to accept that the Ṣūfī warrior would leave the more dangerous enemy and engage with the lesser 'Other.' He categorically rejects using the warfield as a shortcut to paradise. In the entire *Mathnavī* there is no commentary in promoting or praising jihād, except in an esoteric sense. This reflects, to a large extent, political pacifism and is not far removed from the Christian pacifist schools that will be examined in the next chapter.[476]

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[474] Mowlavī (Rūmī), *Mathnavī-e Ma 'navī*, vol.1, 58. These lines are base on a Prophetic ḥadīth. See Muḥammad Ibn al-Ḥasan al-Ḥurr al-'Amilī, *Jahād bā Nafs, of Wasā'il al-Shī 'a ilā Taḥṣīl Masā'il al-Sharī'a*, Ali Afrasiyabi, trans. Section II from vol. 6. ḥadīth number 1, Nahavandi, (Tehran: Nahavandi, 2001) 8.

[475] Mowlavī (Rūmī), *Mathnavī-e Ma 'navī*, vol.1, 65.

[476] The Ṣūfī determinism and pacifism are compatible, but Abdulkarim Soroush argues that because Ṣūfism does not recognize any inherent rights for human being, it becomes very dangerous if it is mixed with politics. He points that such denial of any rights for human being can help a suppressive and despotic regime and a ruler who rules in the name of God. See Abdulkarim Soroush, *Akhlāq-e Khodāyān (Gods' Ethics)*, (Tehran: Entesharat-e Ṭarḥ-e Naw, 1380/ 2001 CE) 180- 82.

Conclusions

Many 'Western' arguments about ethics resonate with the philosophical and ethical debates of the Mu'tazila (Arabic plural for Mu 'taziĪi), the Ashā'ira (Arabic plural for Ash'arī), Muslim ethicists, mystics, philosophers and jurists. The proposition of the moral relativists, that rationality is itself a culturally conditioned concept, for example, is not far from the Ash'arite notion of moral voluntarism, according to which nothing is morally valid if it is external to the *sharī'a*. Both groups of thinkers reject any basis for objective reasoning and natural ethics. How different are the Mu'taziĪi arguments about justice and reason from those of the modern Western rationalists? They both believe in universal and objective reason. For 'Abdu'l Jabbār, al-Fārābī, Ibn Miskawayh and Ṭūsī, objective reason is rooted in human nature as human beings are social animals. Without society, man loses his humanity. By implication, this approach leads to the primacy of the welfare of the society over individual. This is not far from the Utilitarian school for which the happiness of the greater number is a prime consideration. Islamic ethics, however, are closer to the deontological Kantian than the teleological Utilitarian ethics. The ends generally do not justify the means. The formalist argument that ethics is tantamount to manners and attitudes seems close to Ibn Miskawayh's view on *adab*. In fact, the predominant part of the *adab* literature, for example in the *Mirror for the Princes*[477] emphasizes this aspect of ethics, rather than the positive content of its moral action.[478]

Despite the similarities, two major differences may be noted. First, although as Hodgson maintains, "In some ways, freedom was greater in Islamdom than in the Occident"[479] the virtues of 'freedom' or 'autonomy' that lie at the core value in Kantian ethics have little or no precedent in Islamic ethical discussions. Western ethics are generally 'rights-oriented,' whereas traditional Islamic ethics emphasize duties.

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[477] All the genres of *Naṣīḥat al-Mulūk*, (*Niẓām al-Mulk*, *Ghazālī*, *Qābūs-Nāma* etc.)

[478] *Adab* ethics and its implications for war will be further discussed in Chapter Five.

[479] Marshall G. S. Hodgson. *The Venture of Islam, Conscience and History in a World Civilization (Volume 2: The Expansion of Islam in the middle period)*, (Chicago and London: The University of Chicago Press, 1974) 358.

Nevertheless, as Murphy and Coleman point out, 'duty' is the negative side of 'right,' because for every 'right' there is a question of against whom that right is claimed.[480] In a secular system, the right-duty association is applied to state-citizen relations; while in a religious system, these relations are between God, state, and the citizens. Moreover, MacIntyre notes that one of the characteristics of modern Western moral philosophy is a shift away from the traditional Greek concern with *virtue* (excellence of the human person) to a concern about duty or obligation.[481] Given that Qur'ānic ethics is 'duty-oriented,' can it be concluded that with such a shift, modern Western theories of ethics have come closer, in certain respects, to the Qur'ānic scriptural ethics? The modern defenders of moral objectivity in the West, such as William Gass, stress that "we will reject any ethical theory that does not accord with our most fundamental intuition about ethical matters."[482] It seems that this 'fundamental intuition' is identical to the Qur'ānic term *fiṭra* (the fundamental nature), that has been used by a majority of Islamic ethicists exactly in the same objective moral context.

A tension exists between Kantian and Islamic mystical ethical positions. Kant cares more about the rights of the individual than the society. The ultimate success for Kant is to grant the individual's external freedom. Ṣūfis, in contrast, oppose the self. They seek the internal imprisonment of the self. Yet despite this contrast, they both place the individual above the society. A Kantian fights for his personal rights. A Ṣūfi fights for the refinement of his soul. They move on opposite sides of the same circle; they have distanced themselves from each other to such an extent that they find their positions in close proximity once again. An important implication of ethics that focus on the individual is their resistance to social authoritarianism which, as history has shown, has a stronger propensity toward war than other systems.

These thinkers meet on a ground where war for beliefs makes little sense. Al-Fārābī, Ibn Miskawayh and most Muslim ethicists maintain that without society, human

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[480] Coleman and Murphy, *Philosophy of Law*, 82.

[481] See Alasdair MacIntyre, *After Virtue* (Notre Dame: University of Notre Dame Press, 1981).

[482] See William Gass, "The Case of the Obliging Stranger," *Philosophical Review* 66 (1957); quoted in Coleman and Murphy, *Philosophy of Law*, 96.

beings lose their essence. Al-Ghazālī, Ibn al-'Arabī, and Rūmī, on the other hand, maintain that the esoteric world is both bigger and more important than the exoteric world; so is the battle-ground within one's soul by far more serious than the external wars that person may encounter. Most of these thinkers, however, employ objective ethics in support of political pluralism. Objective ethics undermines the assumptions of subjectivism in determining justice, and thereby curtails its authority in promoting war. It is this very same concept of objective justice that is employed both by Rousseau and Muslim jurists alike to provide immunity for vast categories of non-combatant individuals on the opposite sides of states at war.

As al-Ghazālī has demonstrated, the backbone of Islamic ethics is formed by the master virtues of self-control, forgiveness and flexibility (*ḥilm*, *'afw* and *ṣafḥ*). These virtues protect man against anger, vengefulness, quench for negative accounting and rigidity of mind. As these virtues are universal, it is unimaginable that they terminate once they reach a collective level and at the border of the Islamic state. With their universal application, such ethics may only promote tolerance and peace in the international arena.

Measuring the Muslim intellectual response to the questions and notions of war, peace, self, other, enemy and friend needs an overview of yet another realm of life. It is a realm where theology, philosophy, history, art, politics, ethics and some other aspects of intellectual and actual life meet. This realm is named *adab* literature or the most influential litrary means developed by the Persian court elite and administrators to influence state's decision making, behavior, and ethics in various walks of life. The next chapters will provide a brief account of the above realm.

CHAPTER FIVE

WAR ETHICS IN *ADAB* AND EPIC LITERATURE

میاز و منازو متاز و مرنج   چه تازی بکین وچه نازی به گنج
Be not greedy, do not sell pride,
nor transgress, nor cause suffering,
What vain revenge, what a temporary wealth!
<div style="text-align:right">Abūlqāsem Ferdowsī</div>

I believe in the faith of worshiping *Mazda* (God),
the one who defeats wars and destroys weapons
<div style="text-align:right">Zoroaster[483]</div>

This work has thus far examined various theoretical and practical perspectives of Islamic ethics of war. *Adab* and epic literatures are important fields that will provide yet another framework for inquiry. This literature encompasses codes of moral conduct, chronicles, and other narrative poems, in short much of the written culture of medieval Persia. This chapter focuses on the ethics of war in the didactic works of *adab* literature, such as those by Nizām al-Mulk (d. 485 AH/1092 CE), Kai Kāvūs Ibn Iskandar (d. 1085 CE), Fakhr Modabbir (d. 602AH), Rūdakī (d. 329 AH), Muhammad Rāwandī (d. early thirteenth century CE) and Muslih al-Dīn Sa'dī (d. 1291CE). Also, references will be made to the most important work of epic literature in the Eastern lands of Islam namely the *Shahnameh* of Ferdowsī (d. 411 AH/1020 CE), which in itself can be regarded as a book of ethics. The *adab* genre provided a perfect medium through which the learned authors could express their ethical concerns obliquely at a time when the threat of being accused of heresy and blasphemy, proved an effective gag on open discussions. Written at courts with the intended aim of pleasing the prince, they could also influence the moral behavior in war of the most important figures on the battlefield, the amirs and the sultans, who frequently engaged in wars for land or booty. The chapter will also look at contemporary and pre-Islamic collections of anecdotes and legends known as the genre of 'mirror for princes' (*Nasīhat al-Mulūk* or *Siyar al-Mulūk*). These works often cite norms for their moral and political discourse.

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[483] Jalīl Doostkhāh, *Avesta: the Oldest Persian Psalms*, 2nd ed. (Tehran: Murvarid Publications, 1995) vol.1, 275.

The Significance of *Adab* for Ethics

Gabrieli defines *adab* in its medieval peak as a literature that was composed of "Iranian world with all its epic, gnomic, and narrative tradition, the Indian world with its fables, and the Greek world with its practical philosophy, and especially its ethics and economics." He maintains that this literature was centered above all on "man, his qualities and his passions, the environment in which he lives, and the material and spiritual culture created by him."[484] Goodman defines *adab* as "the literary tradition of the secretarial or administrative class, the culture of the professional literati who looked past the lampoons and boasts, which reflected urban values of the court and chancery. Manners were their mores and history their meat. They loved style and relished wit. They knew how high a man could claim in the world, and how fast and far he could fall. Reason in *adab* means sound judgment, deference to experience, that is, to the history, learning, and wisdom of the nations, which Islamic civilization has inherited from its predecessors and made over in new form."[485] Hashmi maintains that "the *adab* tradition is more open than ḥadīth, as it derives its ethical values from various sources: pre-Islamic Arabic, as well as Persian literature, the Qur'ān, Islamic history, ancient Persian history, and Greek and Indian literature. "The *adab* tradition," says Mas'ud, "represents a humanist moral approach to morality."[486] Yet, perhaps the best synopsis of the realm of *adab* is provided by Ibn Miskawayh (d.1030 CE). He believes that manners make the man and that *adab* is tantamount to humanism, manners, discipline, and culture, or in short *adab* is the content of wisdom.[487]

The autonomous rule of the Sāmānids (206-395 AH/819-1005 CE) in Eastern Iran and Tranoxiana has been praised by some of the modern historians as the foremost of all medieval courts that in promoting the Persian *adab* literatures, a major factor that halted the Arabization of Iran after its Islamization. Moḥammad 'Alī Eslamī

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[484] *The Encyclopaedia of Islam,* new edition, s.v. *"Adab"* by F. Gabrieli.

[485] Goodman, *Islamic Humanism,* 83-7.

[486] Mas 'ūd, "The Scope of Pluralism in the Islamic Moral Tradition," 139.

[487] Goodman, *Islamic Humanism,* 107-110.

Nadoushan, a historian of medieval literature and an authority on *Shahnameh* of Ferdowsī, is quoted by Heravī as follows:

> As a result of the Samanid policies, a kind of revivalism of the past Persian memories became fashionable and led to a culture of composing various *Shahnameh* epics, starting with Abu'l Mu 'ayyid Balkhī, 'Ammāreh Marvazī, Daqīqī, the Abū Manṣūrī *Shahnameh* and the *Shahnameh* of Ferdowsī, which brought the genre to its peak.[488]

Among the most important *adab* texts in Persian are the *Shāh-Nāmeh* (hereafter *Shahnameh*) of Ferdowsī, the *Qābūs Nāmeh* of Keykāvūs (ca. 475 AH/1082 CE), the *Siyar al-Mulūk* of Khwāja Niẓām al-Mulk (ca. 484 AH/1091 CE), the *Rāḥat-uṣ-Ṣudūr wa Āyat-us-Surūr dar Tārīkh-e Āl-e Saljūq* of Muḥammad Ibn Sulaymān al-Rāwandī (ca. 599 AH/1202 CE), and the *Ādāb* (plural of *adab*) *al-Ḥarb wa'l-Shujā 'a* of Fakhr Mudabbir (d. 602 AH). The most important Arabic texts are the works of Ibn Muqaffa' (d.756 AH), Ibn Qūtayba (d.889 AH), al-Māwardī (d.1085 CE), and al-Qalqashandī (d.1418 CE). Here a number of the most important *adab* texts relevant to ethics of war will be examined.[489]

War Ethics and Heroism

As mentioned in the first chapter, Shī'ī Islam has shown a strong inclination towards objective ethics in many of its various disciplines. Despite this tendency, it was in epic literature, rather than in the strictly religious sphere, that a Shī'ī poet found the scope to express the most ethical and profound views on war. It gave him the ideal space to explore the difficult moral dilemmas faced by warriors on the battlefield. Here ethics of war could be shown through concrete examples and the repercussions of choices

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[488] Javad Heravī, *The Samanid History: The Golden Era of Iran After Islam* (Tehran: Amir Kabir Publications, 2001) 61.

[489] Some of the above mentioned texts have little to offer on this subject. For example Ibn Muqaffa' has only one short comment regarding 'enemy' in his work of ethics, *Adab al-Kabīr wa Adab al-Ṣaghīr*. He stresses that "the best that can go between you and your enemy is justice, and between you and your friend is contentment." He emphasizes that it is through judgment that one may subdue his enemy, but there should be no judgment among friends. See 'Abdullah Ibn Muqaffa', *Adab al-Kabīr wa Adab al-Ṣaghīr*, trans. Moḥammad Vahīd Gulpāyegānī (Tehran: Nashr-e Balkh, 1996) 60.

meditated upon in a way that would have been impossible within the more limited and clearly defined boundaries of jurisprudence, theology, philosophy, or historiography.

Since the advent of Islam, various ethical systems have appeared under a unified rubric of "Islamic ethics of war," each with its own particular protagonists. It is otherwise difficult to imagine figures such as Khālid Ibn al-Walīd, 'Alī Ibn Abī Ṭālib, Yazīd Ibn Mu 'āwiya, al-Ḥajjāj, Maḥmūd Ghaznavī, Ṣalāḥ al-Dīn Ayyūbī, all supporting similar norms and values. The images of these figures were molded from their peculiar views of Islam by them, those of their biographers and the expectations of readers, as well as other factors. Epic literature provides different heroic images, based on communal memories and veneration for pre-Islamic heroes, thereby inducing a new note of legitimacy and moral authenticity. The process, being a complementary one in conception, soon becomes fused into one: with Islamic heroes assuming pre-Islamic codes of honor and the pre-Islamic ones embracing Islamic virtues.[490]

Shahnameh of Ferdowsī, the Paradigm of Persian Epics

Abulqāsim Ferdowsī's (d. 1020 CE) masterpiece, the *Shahnameh*, (lit. the Book of Kings) is an epic work of literature, based partly on the Persian myth, and partly on historical events. Following a common medieval tradition of historiography, the *Shahnameh* begins with an account of creation, in particular explaining how man and civilization came to be. War is introduced as a consequence of the division of the world among the three sons of Fereydūn, who had once ruled the world with divine support (*farr* in Persian). He divided the world between his sons, Salm, Tūr and Īraj so that Salm received the Western lands, Tūr inherited China and the Central Asian Turkish lands, and Īraj became the ruler of Iran. But instead of bringing peace, the tripartite division led to fratricide. Īraj, the intended ruler of Iran and depicted as a man of peace, is killed by his two brothers. This vile deed is the cause of a cycle of revenge that then occupies

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[490] There are many published editions of the Shahnameh. A critical edition begun by Khāleqī Moṭlaq is near completion. Here the Moscow edition published in 1966 by Andrei Bertels and Yevgeny Bertels, *Shahnameh Ferdowsī: A Critical Edition*, eds. M. N. Othmanof, and O. Smirano, will be used.

much of the earlier part of the *Shahnameh*.[491] In the process of relating these conflicts, Ferdowsī describes not only the horrors of war but its heroism. The cycles of revenge and the redressing of grievances occupy much of the poem but war itself is never idealized and aggression never ultimately rewarded: it is peace and universal harmony that remain the allusive but coveted ideals.

Sources of Ethical Norms in Persian Epic Literature

Ferdowsī's work reflect on a mixed range of ethical norms from pre-Islamic Persian myths and moral ideologies to Islam, and particularly Shī'ism. Ferdowsī was well acquainted with the medieval court system; in his early years, he had been at the Samanid court, yet most of his great epic was written at the time of Maḥmūd Ghaznavī. Maḥmūd was known to be fervently anti-Shī'ī, regarding Shī'īs as little better than infidels. Ferdowsī, on the other hand, was undoubtedly Twelver Shī'ī. This is not simply because he praises 'Alī Ibn Abī Ṭālib in the most laudatory words; after all, many Sunnī authors also wrote admiringly of him. It is because, as Mahdavī Dāmghānī has pointed out, he uses a key epithet for 'Alī, namely *al-waṣiy, "executor"* (الوصّی); a term which identifies 'Alī as the designated heir to the Prophet.[492]

Dādestān-e Mēnōg-ī Xrad

One source of pre-Islamic ethics known to Ferdowsī was the aphoristic Pahlavi text *Dādestān-e Mēnōg-ī Xrad*. This text presents sixty two questions with their answers; in

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[491] According to Qadamalī Sarāmī, of about two hundred wars reflected in the *Shahnameh*, one hundred and thirty seven are international, most of which (eighty four wars) are the pre-historic Iranian-Turkish (Tūrānī) wars. Iranian-Roman (reflecting historic wars), and Iranian-Arab wars are ten each. Qadamali Sarāmī, *Az Rang-e Gol tā Ranj-e Khār*, (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1990) 444.

[492] Aḥmad Mahdavi Damghani, *Ḥāṣel-e Owghāt* (Tehran: Sorūsh Publications, 1999) 576, 586. Damghani asserts that it was the frequent usage of this very term *waṣiy* by Ferdowsī that caused his forfeiture of payment for writing the *Shahnameh* and subsequent persecution by Maḥmūd .See reference to *al-waṣiy* in lines 100 and 107 of *Shahnameh*, Andrei Bertels and Yevgeny Bertels, *Shahnameh Ferdowsī, A Critical Edition*, ed. M. N. Othmanof and O. Smirano, several vols. (Moscow: The Soviet Union Academy of Sciences, 1966) vol.1, 19, vol. 3, 169.

each, a Dānā (wise man) directs his query to *Mēnōg-ī Xrad* (soul of wisdom) who then gives the answers.[493]

To illustrate, questions sixteen to nineteen in chapter one of this work read as follows: "do not be wrathful; for when a man is in anger he neglects good deeds, prayers, and worshipping the gods. All kinds of sins and misdeeds overcome his thoughts till his anger might subside. Wrath is known to be equivalent to the Devil (*Ahrīman*)."[494] This notion, of course, is quite close to the Platonic division of soul where wrath (the irascible or *ghaḍabiyya* faculty) is one of three main faculties of the human soul.

Other questions in the same chapter make related points. Questions fifty two, fifty four and sixty one state: "Fight the enemy fairly. Do not fight with the revengeful man, and with the stupid."[495] Questions eight and nine of chapter forty assert that the most courageous man is the one who can struggle with his own demon (carnal soul).[496] Clearly, this is similar to the Islamic notion of *jihād al-akbar* (the greater struggle). Questions nine to eleven of chapter forty four declare that the devil lives among revengeful people and is in the company of wrathful subjects. "His greatest pleasure," it states, "is in people's animosity with each other."[497] Questions three and eight of chapter fifty eight refer to the worst attributes of military personnel: "their defect is that they can be oppressive, unforgiving and brutal and turn into renegades."[498]

All of the above assertions taken from the *Mēnōg-ī Xrad* condemn important root causes of wars. References to the necessity for fairness with the enemy, moreover, treat the notion of *jus in bello*.

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[493] The compilation of *Mēnōg-ī Xrad* is estimated to be about 531-579 CE. See Ahmad Tafaḍḍulī, *Tārīkh-e Adabiyyāt-e Iran-e Pīsh az Islām*, Zhaleh Amoozegar ed. (Tehran: Sokhan, 1376/ 1996) 198.

[494] Ahmad Tafazzolī, trans. *Mēnōg-ī Xrad*, ed. Jaleh Amoozegar (Tehran: Nashre Tus, Tehran, 2000) 21.

[495] Tafaḍḍulī, trans. *Mēnōg-ī Xrad*, 22.

[496] Tafaḍḍulī, trans. *Mēnōg-ī Xrad*, 56.

[497] Tafaḍḍulī, trans. *Mēnōg-ī Xrad*, 59.

[498] Tafaḍḍulī, trans. *Mēnōg-ī Xrad*, 67.

The Avesta

The oldest Persian religious text is the Avesta, which is the holy book of Zoroastrianism. Various parts of this book were collected in the middle of the second millennium BCE and later periods; however, the final text was completed at the time of the Sasanids. The life period of the founder of this tradition, Zoroaster is still a matter of controversy; the most recent opinion maintains that he lived sometime between 1500 and 800 BCE.

In the oldest part of Avesta, the holy book of Zoroastrianism (namely the Gāthāhā), there are frequent references by Zoroaster to war with infidels and demons (*Durvands* and *Dīvs* respectively).[499] The cause of war against these infidels is not their faith; rather, it is their aggressive destruction of farms, villages and their inhabitants. There are a few references to fighting specifically on behalf of God.[500] Yet these wars were fought in order to end wars, thus reflecting their just cause.[501] The clearest verse condemning war is: "I believe in the faith of worshiping *Mazda* (God), the one who defeats wars and throws away weapons..."[502] God himself (*Ahūrā Mazdā*) is a warrior, but again he is a warrior against war and aggression. In a chapter called *Hūrmazd – Yashat*, verse four enumerates God's names: "The Defeater of war is My name; the one who Triumphs over the enemy with one strike is My name; the Defeater of every creature is my name."[503]

Yādgār-e Zarīrān

Another source for Ferdowsī's *Shahnameh* was the *Yādgār-e Zarīrān* (lit. Memory of Zarīrān), the oldest Persian epic literature in the Pahlavi language. This work was compiled during the time of the Sasanids, but originated earlier in oral forms, possibly

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[499] Doostkhah, *Avesta*, vol.1, 21.

[500] Doostkhah, *Avesta*, vol.1, 23, 53, 65, 92.

[501] Doostkhah, *Avesta*, vol.1, 141, 143.

[502] Doostkhah, *Avesta*, vol.1, (Hāt 12, verse 9) 157.

[503] Doostkhah, *Avesta*, vol.1, 275.

during the Parthian dynasty (226 BC-234 CE)[504] The *Yādgār-e Zarīrān* is a tragic play about ideological wars between Goshtāsp, the king of Persia, and Arjāsp, the King of Khyūnān (Xyōnān in Pahlavi), who resents Gushtasp's conversion to Zoroastrianism and commands the Persians to leave their new faith or else prepare for a battle. Goshtāsp's brother Zarīr (Zarēr in Pahlavi) is the Persian general who, by the permission of the king, formally responds to the military challenge and declares that the Persians would rather fight than leave their newly adopted faith.[505]

The conflict results in a tragedy. As predicted by a court astrologist both Zarīrān and his son are martyred, in the battle between Arjāsp and the Persians. Yet, eventually all of the enemy forces, save for Arjasp, are destroyed; Goshtāsp's son Esfandīyār then captures Arjasp, severs one of his ears and arms, burns one of his eyes, and then sends him back to Khyūnān to tell his countrymen about the fateful encounter and serve as an example for future generations.

Essentially, Esfandiyār's ethics of war has both negative and positive aspects. On the one hand, he mutilates an enemy commander as a prisoner, yet he establishes justice by bringing the war to its end and punishing its perpetrators. This hero later confronts Rostam, the chief hero of the *Shahnameh*, and shows other ethical failings.

The rather short text duly inspires the *Shahnameh* texts of both Daqīqī (d. 365 AH) and Ferdowsī. For Ferdowsī, almost all heroes fall victim to moral shortcomings and are punished for them. Esfandiyār blinds his main enemy Arjasp but soon is blinded at the hands of the *Shahnameh*'s hero Rostam.

Prestige and honor are important motivations in these conflicts. Several warriors from both camps come to battle after the kings Goshtāsp and Arjāsp each promise as rewards their own daughters along with high positions of power

On the whole, however, the Persian court rejects the various financial incentives offered by their adversaries before battle. Their preference for 'fighting to death' is very close to the Islamic notion of venerating martyrdom.

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[504] Yahya Mahyar Navabi, *Yadegar-e Zariran, The Pahlavi Text with the Persian Translation and Comparison with Shahnemeh* (Tehran: Asatir Publication, 1995) 7.

[505] Navabi, *Yādegār-e Zarīrān*, 8.

The above sources are among the most important morally charged sources that Ferdowsī used, but as de Fouchecour mentions, Ferdowsī made the selection of his moral themes from a large body of the pre-Islamic aphorisms, while consciously censoring the some of the pre-Islamic ethical norms that were not feasible in his contemporary milieu.[506] De Fouchecour stresses that the foundations of the ancient Persian ethics as reflected in the Avesta (of Zoroaster) have great similarity to the views of Socrates and Democritus.[507]

Heroes and Anti-Heroes in the *Shahnameh*

There are various heroes and anti-heroes in different episodes of the *Shahnameh*. First and foremost stands Rostam, from the Persian province of Zābulistān. He is a great warrior who serves several kings. Other heroes include Sohrāb, Rostam's son, Esfandiyār, Tūs, etc. None of these are presented in the *Shahnameh* of Ferdowsī as faultless; each, has his own specific moral shortcomings. The opposing side has its share of good character, such as Pīrān Veyseh who finds himself a counselor to a tyrant. He is caught therefore in a situation where his senses of loyalty and reason clash. Aghrīrath, one of Afrāsiyāb's (king of Tūrān and the chief enemy of Iran) brothers, is praised as a peacemaker but this position costs him his life.[508] He takes a firm stance in protection of prisoners of war.[509] Pīrān's brother Pīlsam who is a Turkish general is presented as a respectful person with good virtues. He tried, for example, to save the life of Siyāvash the Iranian prince, his wife Farangīs, and their son Kaykhosrow.[510]

Many of the warriors on the two sides are close relatives. Rostam, the main hero, is a descendent, from his mother side, of Đahhāk, a major demon. Kaykhosrow, one of

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[506] Charles-Henri de Fouchecour, *Moralia: Les Notion Morales dans la Litterature Persan* (Persian), Mohammad Ali Amirmoezzi trans., (Tehran: Markeze Nashr-e Daneshgahi, 1998) 63, 116.

[507] de Fouchecour, *Moralia*, 7.

[508] He saves the lives of hundreds of Iranian prisoners of war captured by his brother Afrasiyāb. See *Shahnameh Ferdowsī*, Moscow Edition, vol.2, 12, 41, 42.

[509] *Shahnameh Ferdowsī*, Moscow Edition, vol.2, 36.

[510] *Shahnameh Ferdowsī*, Moscow Edition, vol.3, 147, 154, 155.

the most respected Iranian kings of *Shahnameh* is the grandson of Iran's chief enemy Afrasiyab.[511] It seems through these examples that Ferdowsī refrained from depicting moral and immoral absolutes among his heroes.[512] He brought close kin and relatives to confrontation, all so that his epics would not stay far from accessibility in real life. On the other hand, to Ferdowsī, authentic history is a tale of morality in which evil faces good, but many times in the same individual.

Moral judgments are less problematical when a flawless hero clashes with villainous anti-hero. Episodes which involve figures like Rostam and Esfandiyār, or Rostam and his son Sohrāb, however, provide unique occasions for illustrating and commenting on the most difficult moral judgments on war and war ethics.

This notion should sound familiar for Homer's readers, for in *Iliad* too, none of the heroes on either sides of the battle (Hektor and Akhilleus) seem to be morally perfect. This is not surprising for one finds Zeus, the supreme Greek god, to be supportively active on both sides of the Trojan and the Achaian wars.[513]

On the Primacy of Diplomacy: The Anti-war Leopards and Mountains

By definition, epic literature is inclined towards war; for without war, there are few measures with which to test heroism. Heroism in the classical sense, in fact, is more about how to win a war than how to win a peace. Most peace initiatives in *Shahnameh* fail. Chubineh points to an observation of Ferdowsī that seems to be one of the core themes of his epics:

<div dir="rtl">

به کشور شود شاه را آبروی   در بی‌نیازی به شمشیر جوی

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[511] Rostam's father Zāl married Rūdābeh, the daughter of Mehrāb the King of Kabūl and who was a descendent of the Arab Zahhāk. Kaykhosrow's mother was Farangis, daughter of Afrasiyab the king of Tūrān. See *Shahnameh Ferdowsī,* Moscow Edition, 1966) vol.1, 157.

[512] Qadamali Sarāmī points that, from time to time, some of the most praised heroes of *Shahnameh* such as Iraj, Siyāvash, Forud, Esfandiyār and even sacred figures such as Zaroaster, Mazdak and Mānī commite, acts that do not follow any moral logic. He concludes that there is no perfect human being in the *Shahnameh* world. See Qadamali Sarami, *Az Rang-e Gol tā Ranj-e Khār,* (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1990) 774, 775.

[513] See Robert Fitzgerald, Trans. *Homer:* Iliad, (New York: Alfred A. Knopf, 1974) Book Nine, 467, 468, Lines 280-345.

The way of self-sufficiency, you must seek, only by the sword
By the sword comes the honor of the king in the country
Soldiers must be as many as stars
By sword men seek virtue.[515]

Elsewhere in the epic work, under the influence of Prophetic ḥadīth such as "Heaven is under the shadows of swords" (الجنّة تحت ظلال السیوف) Ferdowsī reemphasizes the importance of military alertness in the following couplets:

بکن شیری آنجا که شیری سزد   که از شهریاران دلیری سزد
از افکندن شیر شیر است مرد   همان جستن رزم و دشت نبرد
زنان را از آن نام ناید بلند   که پیوسته در خوردن و خفتن اند
که گر نام مردی بجوئی همی   به خون تیغ هندی بشوئی همی
جهانجوی راجان به چنگ اندراست   وگر نه سرش زیر سنگ اندراست
جهان آفریننده یار من است   دل و تیغ و بازو حصار من است

Be lion-like where it fits to be a lion
For kings are expected to be courageous
A man becomes lion-like only by defeating lion
That is to look for fighting and the battlefield
Women's names are not heard of
For all of what they care is eating and sleeping
But if you care for the honor of chivalry
You must wash a sharp sword with blood
The world conqueror has his life in his hand
Or else his head lies under rocks
The world's creator is on my side
And my fortress is my heart, my sword and my arms.[516]

Chubineh asserts, however, that while war is important, it is a matter of last resort. This is reflected in the following couplets:

زجنگ آشتی بی گمان بهتر است   نگه کن که گاوت به چرم اندر است
کسی کاشتی جوید و سور و بزم   نه نیکو بود پیش رفتن به رزم
به گودز فرمود پس شهریار   که رفتی کمر بسته کارزار
نگرتا نیاری به بیداد دست   مگردان ویران آباد که هست
به کردار بد هیچ مگشای چنگ   براندیش از دوده و نام و ننگ
کسی کو به جنگت نبندد میان   چنان ساز کز تو نیابد زیان

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[514] Sajjad Chubineh, *The Practical and Theoretical Wisdom in Shahnameh Ferdowsī* (Shiraz: Entesharat-e Navid, 1998) 224.

[515] These translations those of the thesis author, and are intended to give an accurate interpretation of the original without being over-literal.

[516] *Shahnameh Ferdowsī*, Moscow Edition, vol.2, p.140.

كه نپسندد از ما بدى دادگر   سپنجست گيتى و ما درگذر

به هر كار با هر كسى داد كن   ز يزدان نيكى دهش يادكن

سديگر ننازى به ننگ و نبرد   كه ننگ و نبرد آورد رنج و درد

Peace, no doubt, is better than war
Enjoy life as long as your good fortune is with you
If peace, feasting, and happiness are sought
How wrong it is for one to engage in battle
Said the king to Gūdarz
That once you are prepared for war
Beware not to commit any injustice
Nor destroy buildings
Do not open your hand to any misdeed
And care for the reputation of your ancestors, for honor and for shame
Behave in such a manner that no harm is inflicted upon
the one who is not fighting with you
For the All-just God does not like any transgression
And life, of course, is only a few short days, while we are passing anyways
Do justice with all under any circumstances
And remember the All-giving God
Thirdly, beware not to take pride in shame and battle
For shame and war lead to suffering and pain.[517]

Ferdowsī condemns transgression, no matter who commits the act. In one of the episodes in the *Shahnameh*, the Persian King Kaykavūs was tempted by demons to seize the autonomous northern province of Māzandarān, without any political justification. Zāl, the father of the main hero, namely Rostam, advises the king against this campaign in the following verse:

تو از خون چندين سر نامدار   زبهر فزونى درختى مكار

كه بار و بلنديش نفرين بود   نه آئين شاهان پيشين بود

Beware not to cultivate a tree of transgression that
is watered by the blood of many honorable men
For its fruit and growth will be accursed
This is no tradition of earlier kings.[518]

Rostam's advises his own son Farāmarz, on the importance of diplomacy:

نوندى فرست از پيش پويه پوى   بهر سو كه باشد يكى نامجوى

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[517] Chubineh, *The Practical and Theoretical Wisdom in Shahnameh Ferdowsī*, 223-25. Chubineh maintains that Ferdowsī, in his ethical views on war and peace is heavily impressed by 'Alī Ibn Abī Ṭālib. Also see a similar assertion by Sa'ed Hosseini, *Shahnameh: Shāhkār-e Andīsheh (Shahnameh, the Masterpiece of Thought)* (Shiraz: Entesharat-e Navid, 1995) 63.

[518] *Shahnameh Ferdowsī*, Moscow Edition, vol.2, 139, 82

نخستین به نرمی سخنگوی باش همین راد بر مردم خویش باش

درشتی کن آنگاه و پس رزم جوی چو کارت به نرمی نگردد نکوی

Wherever you find an honor-seeker
Send him an emissary to follow him step by step
First, use soft diplomacy
Be generous to your own men
But if diplomacy fails, only then
Use harsh language and resort to force.[519]

In one episode Pirān, a prominent Tūrānī (Turkish) general, negotiates a peace with Rostam while the latter is on his way to fight the Tūrānīs. This is in revenge for their killing the innocent Persian prince Sīyāvash.[520] Pirān questions why armies, composed of so many different ethnic groups, should face the prospect of destruction for the sake of the blood of an innocent prince. Ferdowsī depicts the conversation as follows:

سپاهی کشیده بر این رزمگاه ز خون سیاوش همه بیگناه

نیاید گرفتن چنین کار ننگ مرا آشتی بهتر آید ز جنگ

بزور و بمردی تواناتری بگو تا چه بینی تو داناتری

نه برآرزو پاسخ افکند بن زپیران چو بشنید رستم سخن

کمر بسته ام با دلیران شاه بدو گفت تا من بدین رزمگاه

ز ترکان آزارتر کس تونی ندیدستم از تو بجز نیکونی

نه خوبست و داندهمی کوه وسنگ پلنگ این شناسد که پیکار و جنگ

Pirān:
For the blood of Siyāvash we have brought
So many innocent troops to the battlefield
For me, being burned is better than waging war
It does not fit us to commit such a shameful act
But let me hear your view for you are more wise
For you are more powerful and chivalrous than me
Once Rostam heard Pirān's view
He did not give a response based on whims
And replied that as long as I have come to this
battlefield along with other warriors of the king
I have not seen from you except kindness
You are the least harmful of all the Turks
And of course, even leopard and rock-mountain
know well that war is not good.[521]

[519] Hosseini, *Shahnameh,* 56.

[520] Hosseini, *Shahnameh,* 67.

[521] *Shahnameh Ferdowsī,* Moscow Edition, vol.4, 233.

166

Rostam agrees to some extent with Pīrān. He insists, however, on fighting on the grounds that he has a mission to accomplish. He is constricted by a universal sense of duty even if his own conscience dictates the opposite.

Ferdowsī opposes haste and rage as two of the most frequent causes of war. He relates the advice of the Iranian hero Gūdarz to his fellow commander Tūs and companion Gīv:

<div dir="rtl">

همان نامداران و گردان نیو   چنین گفت گودرز با طوس وگیو

سپهبد که تندی کند بد بود   که تندی نه کار سپهبد بود

که تندی و تیزی نیاید به کار   خرد باید اندر سر مرد کار

تو در بوستان تخم تندی مکار   که تندی پشیمانی آردت بار

بدین فراین برز ویال و میان   جوانی بدینسان ز تخم کیان

زرسب آن سپهدار نوذر نژاد   بدادی به تندی و تیزی به باد

</div>

So advised Gūdarz, his prominent fellow commanders
Tūs and Gīv:
That rage should not be the attribute of a general
A vengeful general is a bad one
An effective man must resort to wisdom
For rage and haste are of no use
rage will only bring you regret
So beware not to plow the seeds of anger in your garden
It was for rage and haste that you (Tūs) wasted such a
perfect and charismatic descendent of the Kiyānī dynasty (*i.e.* Forūd).[522]

Through haste, Tūs had previously brought the downfall of Forūd. This dissident Iranian hero was inadvertently attacked and killed as a result of Tūs' actions.

Jus in Bello in Ferdowsī's Shahnameh

Ferdowsī was conscious of the concept of *jus in bello* in his epic. In his *Shahnameh*, he reveals his humanitarian concerns in war:

<div dir="rtl">

چو باشد ز تو بد کنش در گریز   چو پیروز گردی ز تن خون مریز

تو زنهار ده باش و کینه مدار   چو خواهد ز دشمن کسی زینهار

ز دشمن نیاید بر ما شکست   که با داد ومهریم وبا تیغ دست

نه از گاه بر غار بی بن گریز   تو خون سر شهریاران مریز

که خون سر بیگناهان مریز   چنین گفت موبد به بهرام نیز

سر بیگناهان نباید برید   ز خون ریختن دل بباید کشید

به زیر اندر آورده را کوفتن   نه مردی بود خیره آشوفتن

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[522] *Shahnameh Ferdowsī*, Moscow Edition, vol.4, 67.

Once you are victorious, stop bloodshed
While the evil foe is escaping
If the foe would seek amnesty from you
Drop all the hatred and grant the amnesty[523]
As long as we do justice and kindness
There are no worries for we are safe from defeat
Do not shed the blood of kings' heads
Nor seek refuge to endless caves
So advised the Mūbad (Zoroastrian priest) also to Bahrām
That you should not shed the blood of the innocents
Blood shedding must be abandoned
And the innocents must not be beheaded
It is unmanly to strike the defeated
and beat the already fallen foe.[524]

Ferdowsī comments further:

<div dir="rtl">

گرفتار کشتن نه والا بود   نشیب است جانی که بالا بود

زن و کودک و خرد با مرد پیر   نه خوب آید ازداد بردن اسیر

دگر گفت کای شهریار بلند   انوشه بدی واز بدی بی گزند

اسیران رومی که آورده اند   بسی شیر خوار اندر آن برده اند

به توقیع گفت آنچه هستند خرد   ز دست اسیران نباید شمرد .

سوی مادرانشان فرستیم باز   به دل شاد و از خواسته بی نیاز

</div>

Killing prisoners is not honorable
The high position of power is indeed on a slippery road
It is against justice to hold women, children
and old men as prisoners,
Another person said "O honorable king,"
"may you be on the side of good and safe from evil."
"As they brought the Roman prisoners,
there are many infants among them."
He (the king) so ordered: "All the underaged,
may not be counted among prisoners."
"We shall return them to their mothers," said the king
"Happily without any need for ransom." [525]

Ferdowsī ascribes humanitarian attitudes in war not only to the Iranian side but their enemies too. In one of the most poignant scenes of the *Shahnameh*, Sohrāb, as the commander of the Turkish forces, is engaged in a fateful clash with an Iranian force, which includes, unbeknown to him, his father Rostam. In

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[523] *Shahnameh Ferdowsī*, Moscow Edition, vol.4, 67.

[524] *Shahnameh Ferdowsī*, Moscow Edition, vol.5, 321-22.

[525] *Shahnameh Ferdowsī*, Moscow Edition, vol.5, 321-22.

his last minutes of life, Sohrāb tells Rostam that the Turkish troops must be saved from any vengeful acts:

سوی جنگ ترکان نراند سپاه   همه مهربانی بر آن کن که شاه
سوی مرز ایران نهادند روی   که ایشان ز بهر مرا جنگجوی
مکن جز به نیکی در ایشان نگاه   نباید که بینند رنجی براه

Expand your most kind effort so that your king,
might not target the Turks
They (the Tūrānīs) are engaged in this war and have come
to the Iranian border for my cause
Therefore they must not suffer
And you (Rostam) should not treat them
except with kindness.[526]

Later, when the Iranian forces have seized the Tūrānī capital and defeated their enemy Afrāsiyāb, the victorious king Kaykhosrow orders his soldiers to treat the captured city in a just and compassionate manner:

به مهر اندر این کشور افسون کنید   ز دلها همه کینه بیرون کنید
چو دیدید سرما بهار آورید   بکوشید و نیکی بکار آورید
هر آنکس که پوشیده دارد بکوی   زپیچیده رویان بپیچید روی
که دشمن بود دوست از بهر چیز   ز چیز کسان سر بپیچید نیز
که جویند بر بیگنا هان گزند   نیاید جهان آفرین را پسند
نباید که ویران کند جای من   هر آن کس که جوید همی رای من
که ویران کند مهتر آباد بوم   ودیگر که خوانند بیداد و شوم

Cast out all spite from your hearts
And seek to seize hearts through the magic of kindness
Do your best in kindness
And bring the spring wherever you see winter
Turn your eyes away from people's spouse
And respect people's properties
For love of property will even turn your friends into enemies
Whoever seeks my advice
Must not undermine my position
And beware that the destroyer of cities,
will be called an 'unjust and bad omen.'[527]

It is worth noting that Kaykhosrow is a paradigm of moral kingship in the pre-historic Persian legend. Kaykhosrow's last advice to his successor Luhrasb on war's

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[526] *Shahnameh Ferdowsī*, Moscow Edition, vol.2, 240.

[527] *Shahnameh Ferdowsī*, Moscow Edition, vol.5, 321-22.

aftermath is very significant for it shows the ideal war as perceived in the Persian epic literature and as depicted by Muslim historiographers like 'Abdulmalik al-Tha'ālibī:

> So asserted Kaykhosrow in his political will to Lohrāsb, "It is incumbent upon any king to remedy the damages of war, and to use all his powers for reconstruction and reform." "During war and its aftermath," Kaykhosrow continues: " the king must act like a kind surgeon, operating free of charge, dismembering the ruined body-parts, out of no other choices, closing all open wounds and curing all injuries as fast as possible."[528]

Ferdowsī most strongly condemns the excesses of war upon reaching the climax in his work. The chief hero, Rostam, stabs his own son, Sohrāb before realizing his true identity. Ferdowsī cautions his protagonist and indirectly, his reader:

<div dir="rtl">

بیالودی آن خنجر آبگون   هر آنگه که تشنه شدستی بخون

بر اندام تو موی دشنه شود   زمانه بخون تو تشنه شود

</div>

Beware!
That whenever you become bloodthirsty,
And spoil your sharp sword with blood.
Then the universe will turn thirsty for your blood,
And will turn all the hairs on your body into sword. [529]

Ferdowsī's condemnation of his own hero in this instance is unequivocal, though Rostam seemed to have had justification for his actions. He was defending the Iranian forces against their Tūrānī enemies led by Sohrāb. In the same way, the larger war is a fratricidal conflict as it pits the three brothers: Iraj, the king of Iran; Salm, the king of the Romans; and Tūr, the king of Tūrān against each other. The futility of war is summed up by the last words of the Iranian hero Bahrām. This hero loses his life in Tūrān by accident when he leaves his lash in his enemy's land. His enemy then fatally attacks him when he returns to recover it. As a revenge, a friend of Bahrām then attempts to kill his killer. In reaction Bahrām declares:

<div dir="rtl">

زکار سپهرش شگفتی بماند   زدو دیده بهرام پس خون براند

که دید این شگفت آشکار و نهان   خروشی بر آورد کاندر جهان

</div>

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[528] 'Abdulmalik Tha 'ālibī, *Tārikh-e Tha 'ālibī (known as Ghurar Akhbār Mulūk al-Furs wa Siyarihim),* Muḥammad Faḍā'eli trans. (Tehran: Nashr-e Noqreh, 1988) 157-8

[529] *Shahnameh Ferdowsī,* Moscow Edition, vol. 2, 237.

که گر من کشم ور کشی پیش من   برادر بود گر کسی خویش من

Bloody tears, then, rolled down from Bahram's eyes
As he was stunned by the tricks of the universe
He amazingly, uttered loud with a sigh,
That whether I kill him or you do so in my presence,
The victim is inevitably my brother or another relative.[530]

These lines and Ferdowsī's recognition of the iron law of nature against murder of human fellows are perhaps influenced by the first poet of Middle Persian language namely Rūdakī Samarqandī (d. 329 AH). Rūdakī who served in the court of Aḥmad Ibn Naṣr Samani, depicts the following story in his poetry:

نزدیک خداوند بدی نیست فرامشت   چون تیغ بدست آری مردم نتوان کشت
انگور نه از بهر نبیذ است به چرخشت   این تیغ نه از بهر ستمکاران کردند
حیران شد و بگرفت بدندان سر انگشت   عیسی برهی دید یکی کشته فتاده
تا باز که آنرا بکشد آنکه تو را کشت   گفتا که که را کشتی تا کشته شدی زار

One may not commit murder when one reaches a sword
Evil act will not perish from God's memory.
The sword is not made to serve the oppressors,
Just as grape that is not created for wine.
Jesus once saw the corps of a murdered man fallen on the road,
He bit his finger in perplexity.
And asked the dead man: "Whom did you kill that caused your own miserable death?"
"And then wait to see who will kill your murderer."[531]

There are several references to the treatment of prisoners of war in the *Shahnameh*. The Iranian King Kaykhosrow upon returning from war with a Chinese ruler orders his prisoners to be treated with care, if not compassion:

در آن جای خاقان چین ساختند   یکی خرم ایوان بپرداختند
همان به که در بند باشد اسیر   نیامد مرا کشتنش دلپذیر
بدو کشوری خواستار آیدت   مبادا که زنده بکار آیدت
کسی کی تواند به عمر دراز   چو کشته بود زنده کردنش باز
بویژه بخون زآنکه کاریست سخت   بهر کار مشتاب ای نیکبخت

They prepared a pleasant porch
And sat the Chinese king therein

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[530] *Shahnameh Ferdowsī*, Moscow Edition, vol. 4, 111.

[531] Manouchehr Daneshpazhooh, *Divān-e Rūdakī* (*Poetry Collection*), (Tehran: Tus publication, 1374/ 1984 CE) lines150-153. These lines are reflective of Christ's statement: "Put your sword back into its sheath, for all who take the sword will perish by the sword." See Saint Joseph, *The New American Bible*, (New York: Catholic Book Publishing Co. 1991) Matthew, 26:53, p.1741

I did not like to kill him,
It is better to have him imprisoned
Lest he may be useful one day if he stays alive
And a state may request him from you
But once he is dead, to bring him back to life
would not be possible for one in a long life.
Oh fortunate one, do not hurry in anything!
especially in shedding blood for it is such a harsh act.[532]

At the same time, Ferdowsī condemns cowardice. He insists on combatant being fully cognizant of the just causes of his battle and confronting his enemy face to face without the use of tricks and deceit. For this reason, he opposes surprise attacks, particularly at night.

In one instance, Rostam seeks to free a countryman imprisoned by a demon. When he finds the demon deep in sleep in a cave, he finally chooses to wake him and let him prepare for battle before killing him.[533]

In a letter to his enemy King of Hāmāvarān, Rostam similarly admonishes the king of his moral shortcomings, for this king had tried to use tricks to win battle. Rostam states:

<div dir="rtl">

که نیرنگ سازی به گردنکشان / زبد گوهران بر تو این بس نشان

به گیتی ندانی همی سردوگرم / بدینسان بیایدت از خویش شرم

به پیوستن اندر بد انداختی / که بر شاه ایران کمین ساختی

نرفتن برسم دلاور پلنگ / نه مردی بود چاره جستن به جنگ

اگر چند باشد دلش پر ز کین / که در جنگ هرگز نسازد کمین

</div>

The fact that you trick your enemies
is good enough a sign to show your evil soul
That is why you must be ashamed of yourself
For you are inexperienced about the vicissitudes of life
You tried to ambush the Iranian king in the battlefield
And this is your constant way
It does not agree with manliness
To be tricky in war
You did not fight like the courageous leopard
that would never waylay,
even if his heart were craving revenge. [534]

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[532] *Shahnameh Ferdowsī,* Moscow Edition, vol.4, 111.

[533] *Shahnameh Ferdowsī,* Moscow Edition, vol.2, 107.

[534] *Shahnameh Ferdowsī,* Moscow Edition, vol.2, 139.

Elsewhere Ferdowsī declares:

<div dir="rtl">

شبیخون نه کردار مردان بود   کسی کوبلا جست گرد آن بود

ورت رای جنگ است جنگ آوریم   تو گر با درنگی درنگ آوریم

</div>

Of manly ways is the one who faces affliction directly
Night attack is not the ways of chivalrous men
If you are for peace, we welcome you
And if you go to war, let us fight honestly. [535]

Ardeshīr, the founder of the Sasanian dynasty, established an elaborate code of conduct for his army. The following is a sample of its rules as depicted by Ferdowsī:

<div dir="rtl">

خرد یار کردی و رای و درنگ   چو لشکرش رفتی بجائی بجنگ

خردمند و با دانش و یاد گیر   فرستاده ای برگزیدی دبیر

بدان تا نباشد به بیداد حرب   پیامی بدادی بآئین و چرب

بدان تا نباشند یک تن دژم   سپه را بدادی سراسر درم

خردمند و بیدار و آرامجوی   یکی پهلوان خواستی نامجوی

که دارد ز بیداد لشگر نگاه   دبیری بآئین و با دستگاه

وز آن پس یکی مرد بر پشت پیل   نشستی که رفتی خروشش دو میل

زدی بانگ کای نامداران جنگ   هر آنکس که دارد دل و نام و ننگ

نباید که بر هیچ درویش رنج   رسد گر بر آنکس بود نام و گنج

بهر منزلی در خورید و دهید   بر آن زیردستان سپاسی نهید

بچیز کسان کس میازید دست   هر آنکس که او هست یزدان پرست

بدشمن هر آنکس که بنمود پشت   شود ز آن سپس روزگارش درشت

بسالار گفتی که سستی مکن   همان تیزی و پیشدستی مکن

بلشکر چنین گوی کاین خود کنید   بدین رزمگاه اندرون برچیند

چو پیروز گردی زکس خون مریز   که شد دشمن بدکنش در گریز

چو خواهد ز دشمن کسی زینهار   تو زنهار ده باش وکینه مدار

چو تو پشت دشمن ببینی بچیز   مپرداز و مگذرهم از جای نیز

غنیمت بدان بخش کو جنگ جست   بمردی دل از جان شیرین بشست

هر آنکس که گردد بدستت اسیر   بدین بارگاه آورش ناگزیر

من از بهر ایشان یکی شارستان   بر آرم به بومی که بدخارستان

چوخواهی که مانی تو بی رنج و درد   ازین پندها هیچ گونه مگرد

که او باشدت بیگمان رهنمای   بپیروزی اندر بیزدان گرای

</div>

Whenever his (Ardeshīr's) army was dispatched on a military mission,
He relied on wisdom, consultation, and patience
He selected a learned secretary who was wise, knowledgeable, and studious
He then sent him detailed instructions,
against any unjust war.
He paid his military well, so that no one would feel unsatisfied
Then he appointed an honor-seeking commander;
a wise, vigilant, peace seeking
and learned secretary who was well aware of the rules
who could keep the troops from transgression;
And then a man who rode on the top of an elephant
whose voice was so loud that it could be heard two miles away,
He called upon the troops, O whoever

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[535] *Shahnameh Ferdowsī*, Moscow Edition, vol.4, 91.

among you honorable heroes who has courage, honor and pride,
Must be aware that no honorable non-combatant of wealth
should be harmed during battle
Wherever your are fed, you must be generous and thankful to the subjects
Do not touch the properties of anyone who worships god
Anyone who turns his back to the enemy will have a difficult life
The commanders were advised that they must neither be relaxed nor take hasty and
preemptive measures.
You inform the troops about who they are and why they are in the battlefield
Once you become victorious, stop the bloodshed
And let the vicious enemy escape
If anyone among the enemy troops seeks amnesty
Grant him amnesty and do not be vengeful
If you find properties abandoned by the escaping enemy
Do not follow them to seize their properties
Share the booty among those warriors who risked their lives
Bring the prisoners of war to this court
I will build, in an undeveloped land, a city for them wherein they shall live
Do not turn your face away from any of these counsels
If you do not want suffering and pain
Once you become triumphant, turn towards god
So that, no doubt, he might give you guidance. [536]

The code of ethics in Ferdowsī's *Shahnameh* goes so far as to regulate the treatment of enemies' corpses. Virtuous kings or warriors respect the body of the slain enemy and sometimes arrange a funeral where the deceased is a nobleman or royalty. An example is when Kaykhosrow slays the King of Mokrān. He rejects the suggestion that he sever the head of his vanquished foe. Ferdowsī relates:

بدو گفت شاه اندرو ننگریم   یکی گفت شاها سرش را بریم
مگر نیز از تخمه اهرمن   سر شهریاران نبرد ز تن
بران همنشان خسته در جوشنش   برهنه نباید که گردد تنش
چنان چون بود شاه را جای خواب   یکی دخمه سازید مشک و گلاب
که مرگ بزرگان بود همچنین   بپوشید رویش بدیبای چین

A soldier so suggested to the king: "we should sever his head,"
The king responded: "we must not look down at him.
Heads of kings must not be severed, except by the progeny of Evil.
And the corps of my deceased counterpart may not be uncovered in contempt, so you must prepare his tomb with musk, rosewater, and proper enough to hold a king. Cover him then with best Chinese silk, for so must the death of the higher ranks be treated."[537]

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[536] *Shahnameh Ferdowsī*, Moscow Edition, vol.1, 174-77.

[537] *Shahnameh Ferdowsī*, Moscow Edition, vol. 5, 348.

Here, Kaykhosrow's ethics of victory is far superior to that of Akhilleus in *Iliad*, for as Homer narrates, Akhilleus rejects the request of his counterpart Hektor that the victor should give a pledge to treat the corps of the vanquished with honor and return him to his family.[538] Akhilleus indignant behavior with Hektor's body is reflected in the following statement of Phoibos Apollo who expresses it in full rage:

...first he (Akhilleus) took Prince Hektor's life and now he drags the body, lashed to his car, around the barrow of his friend (Partroklos, an Akhaian warrior who was killed by Hektor), performing something neither nobler in report nor better in itself. Let him take care, or brave as he is, we gods will turn against him, seeing him outrage the insensate earth![539]

Ferdowsī's Objective Ethics and the Norms of *Javānmardī*

The war ethics of *Shahnameh,* as Sarami points, is notably impressed by the notion of *Javānmardī* (manliness) in various episodes. The disposition is even extended to animal and demon wars. "From time to time in Shahnameh," Sarami holds, "even beasts take measures of chivalry and sacrifice for the benefit of others."[540] Other *Shahnameh* scholars, such as Chubineh and Hosseini argue that Ferdowsī was heavily influenced in his view of war ethics by the conduct of the venerated figure of 'Alī Ibn Abī Ṭālib as the paradigm of the Islamic chivalry (*futūwa* in Arabic and *javanmardī* in Persian).[541]

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[538] Hektor requests: "I'll not insult your corps shoul Zeus allow me victory in the end, your life as prize. Once I have your gear, I'll give your body back to Akhaians. Grant me, too, this grace." But swift Akhilleus frowned at him and said: "Hektor, I'll have no talk of pacts with you, forever unforgiven as you are. As between men and lions there are none, no concord between wolves and sheeps, but all hold one another hateful through and through, so there can be no courtesy between us, no sworn truce, till one of us is down..." Robert Fitzgerald, Trans. *Homer:* Iliad, Book Twenty-Two, 523, Lines 254-262.

[539]Robert Fitzgerald, Trans. *Homer:* Iliad, (New York: Alfred A. Knopf, 1974) Book Twenty-Four, 569, Lines 16-22.

[540] Qadamali, Sarami. *Az Rang-e Gol tā Ranj-e Khār: Shekl Shenāsy-e Qessehāy-e Shahnameh (From the Color of Flower to the Sting of Thorn: The Morphology of the Tales of Shahnameh),* (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1990) 753.

[541] Compare this instruction with 'Alī's similar instructions to his troops, mentioned in Chapter Three of this work. De Fouchécour refers to an *'Alī-nāma* written by an anonymous author on the model of *Shahnameh,* about 482 AH/1089 CE. He also refers to the *Ḥdīqat al-Ḥaqīqa* of Sana'i (d.525 AH/1131 CE), that includes epic poetry about 'Ali's wars. Among the exalted attributes of 'Ali, he stresses, was that "In time of peace, he was with full knowledge, and in time of war with full forbearance (*hilm*)." See de Fouchécour, *Moralia,* 157. See also Mohammad-Reza Shafi'ī-Kadkanī, "Hamāsāʾī Shi 'ī az Qarn-e

بنزد نبی و وصی (علی) گیر جای   اگر چشم داری بدیگر سرای

چنین است واین دین و راه منست   گرت زین بد آید گناه من است

چنان دان که خاک پی حیدرم   براین زادم و هم بر این بگذرم

If you look to the hereafter
You must stand with the Apostle and his executor 'Ali
If you despise my view, leave my thoughts to myself
This is how my faith is and my way
I am born on this belief and will pass away thereby
Consider me as the dust of the Lion's (an epithet of 'Ali) footsteps.

While he was undoubtedly influenced by Islamic and Shi'i cultures, the very foundation of Ferdowsi's moral system, like that of his fellow Mu'tazilites, gives great importance to wisdom. This is illustrated in Ferdowsi's aphoristic statements, most of which are quoted by Buzarjomehr, the wise minister of the Sasanid king Anowshirvān. The minister begins each quote with an invocation to wisdom (*kherad* in Persian). Indeed, the introduction to Ferdowsi's *Shahnameh* stresses that the entire work should agree with wisdom, or be taken symbolically whenever it does not:

برنگ فسون و بهانه مدان   تو اینرا دروغ و فسانه مدان

دگر بر ره رمزو معنی برد   ازو هر چه اندر خورد با خرد

You do not call this (*Shahnameh*) false and fable
And in such colors.
It agrees either with wisdom
Or else take it as a metaphor and allegory.

Ferdowsi quotes Buzarjumehr (Bozorgmehr in Persian):

سزاوار خلعت نگه کن کی است   خرد مرد را خلعت ایزد است

بگیتی کس او را خریدار نیست   تنومند راچون خرد یار نیست

خرد جان پاک است وایزد گواست   نباشد خرد جان نباشد رواست

سرافراز گردد به ننگ و نبرد   چو بنیاد مردی بیاموخت مرد

Wisdom is man's God-given robe of honor
Look to see who deserves such a mantle
Once the physical power of a man is uncoupled with wisdom
He is not desired anywhere in the world
Where there is no wisdom, it is better that there is no life
Wisdom is the pure soul as God testifies
Once a man learns the foundation of manliness

He is respectful in war and adversities.[542]

The *Shahnameh* generally asserts the importance of tolerance and wisdom as follows:

<div dir="rtl">

مدارا خرد را برادر بود   خرد بر سر جان چو افسر بود

</div>

Tolerance is like the brother of wisdom
Wisdom is the crown of the soul.[543]

According to Ferdowsī, the chief reason that the Sasanian king Yazdgerd (d. 651 CE) became a villain (*bezehgar*) and ultimately lost his reign was that he belittled wise men:

<div dir="rtl">

خردمند نزدیک او خوار گشت   همه رسم شاهیش بیکار گشت

</div>

He belittled the wise men
So his kingly traditions became ineffective.[544]

Finally, when Alexander the Great came to the throne, Ferdowsī reports that he praised wisdom with the following words:

<div dir="rtl">

سکندر چو بر تخت بنشست گفت   که با جان شاهان خرد باد جفت

</div>

When Alexander sat on his throne, he exclaimed:
"May kings' souls be paired with wisdom!"[545]

The objective ethics of Ferdowsī, founded on wisdom, justice, and compassion, take his principles beyond the formal lines of religious thought and juristic norms. As the next chapter will discuss in detail, the pre-Islamic Persian moral culture of *javānmardī* (lit. young-manliness) not only lived on after the fall of the Sasanid empire, but in fact was reinvigorated under the new name of *futūwa*, and found strong institutional forms during the entire middle ages.[546] The frequent usage of the term

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[542] *Shahnameh Ferdowsī*, Moscow Edition, vol.8, 139-40.

[543] *Shahnameh Ferdowsī*, Moscow Edition, vol.8, 118.

[544] *Shahnameh Ferdowsī*, Moscow Edition, vol.7, 265.

[545] *Shahnameh Ferdowsī*, Moscow Edition, vol.7, 6.

[546] It was the caliph al-Nāṣir who strongly backed and reformed the *futūwa* institutions at the turn of the twelfth century CE.

javānmardī (or its shortened term *mardī*) was possibly a reminder to the medieval reader that war ethics rested on the universal dictates of wisdom.

In the era of Ferdowsī, spanning the end of the tenth until the beginning of the twelfth century CE, newly independent amirs and sultans from such dynasties as the Samanids, the Buyids and the Ghaznavids sought new forms of legitimacy. By holding up the Sasanids as models of right conduct, Ferdowsī reminded them that from whatever source that they may derive this legitimacy, they are nonetheless bound to observe specific codes of conduct in warfare. Ferdowsī calls attention to the virtues of wisdom and manliness (*kherad* and *javānmardī*). On the occasion of the burial of Alexander, the poet by addressing the deceased king reminds the audience present in the funeral that:

<div dir="rtl">

همه نیکوی باید و مردمی   جوانمردی و خوردن و خرمی

جز اینت نه بینم همی بهره ای   اگر کهتر آنی و گر شهره ای

</div>

At this moment the only things that can help your soul are:
Kindness and assistance to people
Manliness, appreciation of life and being pleasant
I do not see how you may carry with you (to the next world)
virtues other than these,
be you a layman or a noble.[547]

Justice and *Jus ad Bellum* in the *Shahnameh*

The main purpose of wisdom and manliness in the *Shahnameh*'s moral system is to spread justice (*dād*). In the same way, the main legitimate cause for war is to establish justice.

Generosity (*bakhshandegī*) is also important. It is, in fact, a form of financial justice. From an Islamic perspective, Ferdowsī believes that man has a divine soul and must attain godly attributes; therefore, the two most important attributes of God, whom man emulates, are generosity and justice. This is evident in the following verse:

<div dir="rtl">

خداوند بخشنده دادگر   خداوند مردی و هوش و هنر

</div>

The Generous and the Just Lord
The Lord of chivalry, intellect, and, virtue. [548]

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[547] *Shahnameh Ferdowsī*, Moscow Edition, vol.7, 110.

[548] *Shahnameh Ferdowsī*, Moscow Edition, vol.7, 20.

In the same vein, a wise king declares:

<div dir="rtl">

گر اندر جهان داد بپراکنم   به از آنکه بیداد گنج آکنم

</div>

It is better for me to promote justice in the world,
rather than to unjustly add to treasure. [549]

The *Shahnameh* enumerates two legitimate and just causes for wars: first, defending land and dignity, and secondly, implementing justice, an act done mostly in the context of punishing a person or a state for a crime or aggression they committed.[550] Most other causes are condemned, even if pursued by an Iranian countryman of Ferdowsi.[551]

Rage and vengefulness are unsatisfactory motives for war. They are ranked among the ten most serious demons, or cardinal vices, upon which the minister Buzarjumehr expounds to Anowshirvan:

<div dir="rtl">

که آرند جان و خرد را بزیر   ده اند اهرمن هم بنیروی شیر
کز ایشان خرد را بباید گریست   بدو گفت کسری که ده دیو چیست
دو دیوند با زور و گردن فراز   چنین داد پاسخ که آز و نیاز
چو نمام و دو روی ونا پاک دی   دگر خشم و رشک است وننگ است و کین
بنیکی و هم نیست یزدان شناس   دهم آنک از کس ندارد سپاس

</div>

Lion-like demons are ten
That can strike wisdom and soul
Which are these ten demons that make wisdom weep?
So he (Buzarjomehr) responded:
The two most powerful of them are avarice and neediness
Next are rage, jealousy, indignity and rancor.
Then comes the gossip-monger, the hypocrite, and the heretic
The tenth is the one who is thankless for any kindness and who is an infidel to God.[552]

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[549] *Shahnameh Ferdowsi*, Moscow Edition, vol.7, 262.

[550] Justice for Ferdowsi, like for many other medieval thinkers, as de Fouchecour stresses, is the most important moral foundation for development of the state. See de Fouchecour, *Moralia*, 62.

[551] As already mentioned, Rostam vehemently protested the unprovoked invasion of Māzandarān by Kayqubād.

[552] *Shahnameh Ferdowsi*, Moscow Edition, vol.8, 195-96.

179

True, rage and rancor are evil, but they are often main drives for heroes and perhaps, in the words of Homer, too sweet to resist. Therefore, for Ferdowsī, fighting against anger is a great fight. He sits next to Homer's hero Achilleus when he prays:

> Ai! Let strife and rancor perish from the lives of gods and men, with anger that envenoms even the wise and is far sweeter than slow-dripping honey, clouding the hearts of men like smoke.[553]

Against Blind War

It is customary for most warriors of *Shahnameh* to ask their foe's identity before they engage in battle. This is an emphasis by the poet that a just warrior must avoid blind wars, even if the foe is a dragon:

<div dir="rtl">

بدان اژدها گفت بر گوی نام   کز این پس تو گیتی نبینی بکام

</div>

> So asked (Rostam) the dragon "you should reveal your name (identity),
> For you will not enjoy life hereafter."[554]

Leaders typically announce their reasons for war, whether justified or not, before initiating hostilities. Kaykhosrow, for example, declares the causes for his campaign against Afrāsiyāb as follows:

<div dir="rtl">

منم داغ دل پور آن بیگناه   سیاوش که شد کشته بر دست شاه
بدین دشت از ایران بکین آمدم   نه از بهر گاه و نگین آمدم

</div>

> I am the heart-burned bereaved son of that innocent
> Siyāvash who was killed in Shah's hand.
> I have come from Iran to this plain only for revenge,
> not for power nor for wealth. [555]

In other sections, Kaykhosrow delivers a full list of grievances against Afrāsiyāb including the murder of Aghrīrath, Afrāsiyāb's own brother, Nowzar, Kaykhosrpw's

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[553]Robert Fitzgerald, Trans. *Homer:* Iliad, (New York: Alfred A. Knopf, 1974) Book Eighteen, 439, Lines 78-85.

[554] *Shahnameh Ferdowsī,* Moscow Edition, vol.2, 96. See also how a demon (Owlād) asks Rostam to introduce himself before they start their battle. Vol.2, 100.

[555] *Shahnameh Ferdowsī,* Moscow Edition, vol.5. 272.

father Siyāvash and others.[556] Kaykhosrow believes he has legitimate cause for war; if not, he prays before God that he should not be successful as follows:[557]

بیامد بیکسو ز پشت سپاه   بپیش خداوند شد داد خواه
که ای برتر از دانش پارسا   جهاندار و بر هر کسی پادشاه
اگر نیستم من ستم یافته   چو آهن بکوره درون تافته
نخواهم که پیروز باشم بجنگ   نه بر دادگر بر کنم جای تنگ
اگر زو تو خشنودی ای دادگر   مرا باز گردان ز پیکار سر
بکش در دل این آتش کین من   به آئین خویش آور آئین من
بگفت این و بر خاک مالید روی   جهان پر شد از ناله زار اوی

Leaving his troops aside, he (Kaykhosrow) went to a corner,
To present his case before God.
And uttered the following:
"Oh! You who are greater than the knowledge of the ascetic! You are the Lord of the
world, and the king of all!
If I am not a wronged party,
And not burning from inside just like a hot iron,
Then, I do not want victory in war,
Nor do I desire to suppress justice in the world.[558]
Oh! If You the most just, are content with him (Afrasiyab),
May You cut short my confrontation with him!
Extinguish the fire of revenge in my heart!
And guide me towards Your preferred way!"[559]
Uttered Kaykhosrow all these words and prostrated himself on earth before the Lord,
And the world was fraught with his moaning.

Ferdowsī's Definition of Infidelity (*kufr*)

The most frequently alleged cause of medieval wars in Muslim cultures, though seldom the true cause, was infidelity (*kufr*). Ferrdowsī defines his own version of infidelity as follows:

هر آنکس که در هفت کشور زمین   بگردد ز راه و بتابد ز دین
نماینده رنج درویش را   زبون داشتن مردم خویش را
بر افراختن سر به بیشی و گنج   برنجور مردم نماینده رنج
همه نزد من سر بسر کافرند   وز آهر من بد کنش بد ترند

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[556] *Shahnameh Ferdowsī,* Moscow Edition, vol.5, 308, 309, 374, 375.

[557] Qadamali Sarāmī points that the main war cause in *Shahnameh* is revenge (*kin*) to establish justice, however, he asserts that such revenge is asked for and sanctioned by the Divine. "In fact," he maintains, "the first act of revenge in the epic is directly ordered by God (Ahūrā Mazdā). See Qadamali Sarami, *Az Rang-e Gol tā Ranj-e Khār,* (Tehran: Sherkat-e Entesharat-e Elmi va Farhangi, 1990) 650.

[558] *Shahnameh Ferdowsī,* Moscow Edition, vol. 5, 293.

[559] *Shahnameh Ferdowsī,* Moscow Edition, vol. 5, 359.

Whoever, within all the seven states of the world
Whoever alters the tradition and turns away from faith.
Whoever inflicts suffering upon the dervish
and servitude upon his own people.
Whoever stands arrogant in excesses and wealth,
Whoever makes the oppressed people suffer.
They all are infidels in my view,
And are worst than the vicious *Ahriman* (Devil).[560]

Infidelity is more than unbelief; it is universal error of arrogance, oppression, and greed which undermine divine justice.

Heroes in Conflict: A Moral Dilemma

Another tragic episode is the return of Esfandiyār, an Iranian crown prince, to Iran after defeating the enemy Arjasp. Esfandiyār claims the throne as promised by his father Goshtāsp, but Goshtāsp conspires to thwart his claim. He orders him to bring back the hero Rostam to answer for alleged offenses. Although Rostam agrees to visit the king's court on honorable terms, Esfandiyār rejects these terms since his father insisted on him bringing Rostam in restraints.

The two most respected heroes in the *Shahnameh* are now trapped in a moral dilemma. They are bound by circumstance to fight or to face dishonor. Seeking advice, Rostam debates the problem with Sīmurgh, a mythical bird which protected his family, as follows:

مرا كشتن آسانتر آيد ز ننگ   وگر باز مانم بجائى ز جنگ
چنين داد پاسخ كز اسفنديار   اگر سر بجاى آورى نيست عار
بسيمرغ گفت اى گزين جهان   چه خواهد بر اين مرگ ما ناگهان
جهان يادگار است و ما رفتنى   بگيتى نماند بجز مردمى
بنام نكو گر بميرم روا است   مرا نام بايد كه تن مرگ‌راست

"It is easier for me," uttered Rostam, "to be killed if I am
locked in a combat, rather than suffer indignity."
So he (Sīmurgh) responded: if you obey
a hero like Esfandiyār, it is no indignity
Said Rostam to Sīmorgh: "Lo! Beloved of the
world, what is wrong if we suddenly leave this world?"
"The world will remain and we will leave anyhow;
nothing will be left of us except manliness."
"I welcome dying in good name,
for ultimately the name is mine just as my body
belongs to death."[561]

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[560] *Shahnameh Ferdowsī*, Moscow Edition, vol. 1, 136.

182

Simorgh reminds Rostam that whoever kills the hero Esfandiyār will be cursed and remorseful, and will suffer the rest of his life. However, it guides Rostam in the fatal battle in targeting the only vulnerable spot in Esfandiyār's body, his eye. In a similar way, Esfandiyār pulled out the eye of the Tūrānī king Arjāsp, and killed him after his defeat.

The battle ends with no absolute victor, no impeccable hero, and no one saved from the pain of tragedy. Esfandiyār is killed, but so is the soul of Rostam. This is a battle that involved blind obedience to the king, a hero's personal pride, a destiny that settles the accounts of every actor on every side, and enemies who are all brothers or cousins. There were good souls on both sides, along with good motives, and much courage was wasted in vain. Perhaps it was against this dramatic background that Ferdowsī decided to remind his readers that they may be subject to the same fate, and with this in mind, he often warns against hasty judgments about what is right and wrong in war and peace. He appeals to his audience to consider the middle ground in their judgments:

<div dir="rtl">
میانه گزین در همه کار کرد   به پیوستگی هم به ننگ و نبرد
</div>

The moderate succeeds everywhere,
both in connection to matters of dignity and in war.[562]

But war, although a hard and seemingly a permanent feature of life and the main drive for classical heroism, it is not the middle ground of an ideal life. Davidson shows how Ferdowsī makes his hero Rostam to speak in criticism of a life all spent in war, while he nears his last days. The following is Rostam's song about himself:

<div dir="rtl">
که آواره و بد نشان رستم است   که از روز شادی ش بهره غم است
همه جای جنگست میدان اوی   بیابان و کوه است بستان اوی
همه جنگ با شیر و نراژدها است   کجا اژدها از کفش نار ها ست
می و جام و بویا گل و میگسار   نکرده است بخشش ورا کردگار
</div>

Rostam is an outcast and ill-signed,

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[561] *Shahnameh Ferdowsī,* Moscow Edition, vol.6, 297-98.

[562] *Shahnameh Ferdowsī,* Moscow Edition, vol.6, 298.

For from his days of joy his portion is grief.
Every battlefield in his arena,
the bush-land and mountains are his flower garden.
There is always some battle with a lion or a male dragon,
And the type of dragon that spreads fire from its hands
The wine, the cup, the scented rose, and the drinking companion
Are not what the Omnipotent has appropriated to him.

"Here Rostam sings about himself in the third person," Davidson contends, "How hard his life is fighting all alone in the wilderness, like an outcast, where the wilderness must serve him as a cultivated garden. He will always be an outsider, that is, a liminal figure."[563] Davidson notes similar bitter confessions uttered by other heroes of *Shahnameh* such as Esfandiyār:

<div dir="rtl">

همی‌گفت بد اختر اسفندیار   که هرگز نبیند می و میگسار
نبیند جز از شیر و نر اژدها   زچنگ بلاها نیابد رها
نیابد همی زین جهان بهرهای   بدیدار فرخ پری چهرهای
بیابم ز یزدان همی کام دل   مرا گر دهد چهره دلگسل
ببالا چوسرو چوخورشیدروی   فروهشته ازمشک تا پای موی

</div>

Ill-starred Esfandiyār said continuously:
He never sees wine or drinking companions.
He sees nothing but lions and male dragon,
He finds no escape from the claws of calamity.
He never finds any gain from this world,
In the beautiful sight of a fairy face.
I will find from God all my heart's desire,
If he gives me the face of a heart-breaker,
In stature like a cypress and with a face like the sun,
With musk-scented hair hanging to her feet.[564]

Esfandiyār is a prince who, in the words of Davidson, "potentially embodies the very essence of the body politic," just like Rostam is, "a loner, an outsider, and always will be out of synchronization with society." "Both heroes," Davidson holds, "complain that they are away from ordered society and comfort of a civilized life."[565]

Here, by subjecting his heroes to sheer humanism outside and above war, Ferdowsī transfers them from a mythical domain to real life. This is where the full

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[563] Olga M. Davidson, *Poet and Hero in the Persian Book of Kings*, (Ithaca and London: Cornell University Press, 1994) 164.

[564] Davidson, *Poet and Hero in the Persian Book of Kings*, 164.

[565] Davidson, *Poet and Hero in the Persian Book of Kings*, 165.

spectrum of the contemporary life comes to picture and heroes become honest critics of war and of their own lives. It looks as if it is the very person of the poet who walks out of the war-stricken life of his time, goes to solitude in full conscious, and expresses his sorrows, indignations, and his craving for civilized life.

Ferdowsī's powerful and penetrating language has played many different roles after his death. It has been used to celebrate war and peace, and as a reminder to rulers about the importance of justice. Perhaps the two most important aspects of Ferdowsī's work are his fusion of pre-Islamic Persian and Islamic ethics and his use of narrative and poetic meter to disseminate his ethical system. He stresses on the importance of human dignity, bringing the 'self' under scrutiny and reminding his reader that the 'other' may have great virtuous men on its side too.

A Medieval War-Ethics Manual

Another important text of *adab* treating the ethics of medieval wars is the *Ādāb al-Ḥarb wa'l Shujā 'a* of Fakhr Mudabbir, also known as Mubārakshāh. A descendent of the Ghaznavid dynasty, Mudabbir served Sulṭān Shamsuddīn Iltatmish of India who reigned between 607 to 633 AH, at the time of the caliphate of al-Mustanṣir Billāh (623-40 AH/1226-42 CE).

A didactic work, *Ādāb al-Ḥarb wa'l Shujā 'a* draws on Persian and Islamic history in relating an ethical protocol of war. Mudabbir's work has a moral force since much of the history it discusses is sacred. It treats many of the core personages and events which shaped these civilizations.

Like many other 'mirrors for princes' works, Mudabbir begins his treatise expounding the virtues of justice ('*adl*), compassion, and forgiveness. He states that "if the King implements justice, he has no need for war."[566] He uses a number of anecdotes to show that even the most callous and savage rulers, such as al-Ḥajjāj, the Marwanid governor of the Ḥijāz and Iraq, had to temper justice with compassion. This was a reminder to contemporary rulers. Whether or not these narratives are historically factual was secondary to Muddabir as the moral message was much more important. The

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[566] Muḥammad Ibn Manṣūr Ibn Sa 'īd Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb wa'l Shujā'a*, ed. Aḥmad Soheily (Tehran: Iqbal, 1965) 164.

emphasis on justice is a common feature of the entire *adab* genre and a departing point from its opposite moral system, best defined by Machiavelli (d. 1527 CE) in the following words: "…a battle that you win cancels any other bad action of yours. In the same way, by losing one, all the good things worked by you before becomes vain."[567]

Mudabbir believed that, besides being just, the Sultan should also be personally involved in war. He praises, for example, Maḥmūd Ghaznavī as a warrior because in the course of one of his campaigns in India he made such a "river of blood in Lahore by killing so many infidels and Qarmatis[568] that it was very hard after the war to separate his hand from his sword stuck together (as they were) by clotted blood."[569] According to Mudabbir, al-Ḥajjāj ordered and personally observed the beheading of many prisoners while at the same time wept during the process out of 'compassion!'[570]

On the qualities of the *vizier* (minister), Mudabbir paraphrases the Sasanid king Anowshirvan (d. 579 CE) who is said to have stressed that "the worst vizier is the one that involves his master in a war."[571] In chapter six, he elaborates at length on the need to prevent war using all diplomatic means, including the exchange of able ambassadors and gifts. He asserts that war must be the last resort and that it is much preferable if one can win one's aims by diplomacy.[572] Peace is superior to military victory since it saves many lives.[573] Moreover, "once war sheds blood, it becomes very difficult to reach

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[567] Niccolo Machavelli, *Art of war*, Translated, edited, and commentary by Chritopher Lynch, (Chicago and London: The University of Chicago Press, 2003) 20.

[568] The Qarmaties were one of the Shīʿī sects who mainly ruled in Bahrain as well as parts of Yemen and ʿUmman during the tenth century CE.

[569] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 268.

[570] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 37.

[571] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 135.

[572] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 372, 454.

[573] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 278.

peace."[574] He further emphasizes the need to meticulously observe any treaty that is signed with one party or another.[575]

The Causes and Conduct of War in the Manuals

Mudabbir divides war into five types of legitimate war (*harb*) depending on their causes, wars against infidels, intra-Muslim wars, wars against rebels, wars against subject religious minorities who refrain from paying the poll tax (*jizya*), and finally, wars against high-way robbers. In Mudabbir's framework, only wars against infidels amount to primary (offensive) wars; the rest are of a defensive nature.

Muddabir elaborates more extensively different categories of martyrs. He includes in this categorization all sorts of people who die as the result of natural disasters, such as floods, fires, and earthquakes, by the actions of vicious or poisonous animals, through disease, - or by decree of a Sultan. He further disregards circumstances such as whether or not the one who is murdered is defending his, person, property, spouse or children, or is languishing in prison.[576] This serves to diminish the importance of war as a path for otherworldly rewards.

Mudabbir's treatise comments extensively on *jus in bello*. Citing many historical precedents, he recommends that the executions of prisoners of war be delayed for as long as possible. According to the Prophet's instructions, these prisoners may convert to Islam in the future and be useful to the Muslim community.[577] Nevertheless, Mudabbir states that "in case that the execution is inevitable, the prisoner's mouth must be tied for they may utter blasphemous curses once they face death."[578]

Mudabbir's text follows the advice of both the Prophet and Abū Bakr in the treatment of the elderly, women, children, as well as the sick and insane; these groups

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[574] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 349.

[575] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 149.

[576] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 37.

[577] Mubarakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 345.

[578] Mubārakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 345.

are to be spared the violence of combat. Nevertheless, Mudabbir departs from their example in two matters. First, the Muslim commander may breach a peace agreement he has signed and resume war if sees benefits.[579] Secondly, the Muslim commander may kill, enslave or free prisoners of war to serve the Muslim community as he so wishes.[580] In both cases, critical war decisions are left to the arbitrary will of the commander without requiring widely-recognized just cause or well-defined criteria. Such attitudes agreed with the actual practices of Sultans in their conduct of war. However they lack firm legal foundations, though works such as Shaybānī's *Siyar* are cited in many parts of the text.

Mudabbir perhaps tried to reconcile Islamic tradition with the world he lived in. Although he was familiar with ḥadīth and earlier historical experience, he served a court led by Sulṭāns who acted very differently. He also provides a number of ḥadīth and historical anecdotes claiming that the length of one's life is destined once he is born so that one cannot escape death by avoiding war.[581]

As a result, Mudabbir sometimes contradicts himself. The last chapter of *Ādāb al-Ḥarb* is focused on general moral advice that goes far beyond the realms of the military sphere. It points out, for example, that the ruler or commander must refrain from personal participation in battles as long as it is possible, for any injury to the commander could inflict irreparable harm to the morale of the army.[582] This attitude directly contradicts Muddabir's earlier statements about Maḥmūd Ghaznavī whom he praised for his personal participation in battles. One similarly recalls 'Alī challenge to Mu'āwiya at Ṣiffīn. Mu'āwiya maintained that the 'commander's job is not fighting.'

Muddabir's ethics of war, consequently, varies from the practical to the idealistic. He is sometimes caught between two irreconcilable extremes. For example, he spends a chapter on how specific prayers and supplications may change the fate of war and guarantee the victory. Yet at the same time, he advocates breaching a peace

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[579] Mubārakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 400.

[580] Mubārakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 401.

[582] Mubārakshāh (Fakhr Mudabbir), *Ādāb al-Ḥarb*, 488.

contract unilaterally, and initiating a war if a Sultan desires so. One may therefore conclude that Muddabir's war ethics is morally mixed and controversial, yet it is very elaborate and provides full details of forms, tactics and strategies of the medieval Muslim wars in an exceptionally unique way. These mixed war ethics, in which the lines between virtues and vices in the act of warriors are not so sharp, is an accurate representation of the medieval warrior. Mudabbir's warrior observes some Islamic norms of war as he carries the flag of *jihād.* Nonetheless, he fights only for military victory with all of its worldly privileges.

War Ethics in Saljūq Literature

It has previously been mentioned that the Saljūqs' moral attitude in war was not much different from that of the Ghaznavids. This is reflected generally in the literature of the period. Two of the main *adab* works of this era in the genre of *Mirror for the Princes* are the *Siyar al-Mulūk* (written 484 AH/1091 CE) of Khwāja Niẓām al-Mulk (d. 485 AH/1092 CE) and *Qābūs Nāmeh* written by Kai Kavūs Ibn Iskandar (c. 1020-1085). The former work is a comprehensive political treatise addressing the details of court policies. It has little to offer on military ethics except for a few words at the end advising the king to "fight with the enemy in such a manner that leaves a space for peace, and make peace in such a way that leaves an excuse for war."[583] This ambivalent judgment about war, in the same spirit as Muddabir's, is plainly pragmatic. This pragmatism may be explained by the division in the Ghaznavid and Saljūq courts between the men of the pen (mostly Persians) and men of the sword (Turkish in origin). In Bayhaqī's history for example, whenever there is a question of going to war, the *Vizier* says at once that the king should first seek the advice of his Turkish military commanders since they are the ones who know the business better than anyone in the more bureaucratic and divan part of the court.[584]

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[583]Abū 'Alī Ḥasan Ṭūsī (Khwāja Niẓām al-Mulk), *Siyar al-Mulūk* ed. Hubert Darek (Tehran: Sherkat-e Enteshārāt-e Elmī, 1999) 330.

[584] Bayhaqī, Abū'l Faḍl Muḥammad Ibn Ḥusayn, *Tārīkh Bayhaqī*, 8th ed., ed. Ghani and Fayyāḍ (Tehran: Arghavan Publishing, 2002).

Qābūs Nāmeh written by Kai Kāvūs Ibn Iskandar for his son covers a wide range of mostly moral topics with special emphacis on manners of conduct in a spirit similar to modern formalism. The small section of the book on war advises against cowardice and supports strong resolve in the battle. Then the author turns to the matter of just cause for the bloodshed and warns his son against unjustified killing. He stresses on the following:

> Do not be over-hasty in shedding innocent blood, and regard no killing of Muslims to be lawful, unless they are brigands, thieves and grave-robbers or such whose execution is demanded by the law. Torment in both worlds is inflicted for shedding of innocent blood; you will find retribution for it on the Day of Resurection, but also in this world your name will be besmirched. None of your subjects will trust you, those who serve you will despair of reward from you, your people will conceive hatred for you and will in their hearts become your enemies. Retribution for the shedding of innocent blood will assuredly not be confined to the next world, for I have read in books and ascertained by experience that the punishment for evil may also be inflicted on men even in this world. When they are gone, even if their own stars chance to be favourable, misfortune will befall their children. Therefore spare yourself and your offspring by shedding no innocent blood. [585]

The author then informs his son that his great grandfather was a bloodthirsty man, never able to forgive an offense, and therefore lost his life as a vengeance.[586]

Another important *adab* text of the Saljūq era is the *Rāhat-us-Sudūr wa Āyat-us-Surūr* (written 599 AH/1202 CE) of Muḥammad Ibn 'Alī Ibn Sulaymān Al-Rāwandī (d. early thirteenth century CE). In this work, he provides an account of the latter part of Saljūq history (1037-1194 CE), however he does so with little information on their military campaigns. Nevertheless, it is an appropriate text for examination here for its norms are more Islamic than those of the early Saljūqs which drew from nomadic and Turkic traditions.

Like other works of this genre, Rāwandī begins with a statement on the importance of justice for kingship. In doing so, he cites the following Prophetic ḥadīth:

'عدل ساعه خیر من عباده سبعین سنه

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[585] Gerard, Chaliand. Ed. *The Art of War in World History*, (Berekly, Los Angeles, London: University of California Press, 1994) 430. The piece is originally translated by Reuben Levy (New York: Dutton, 1951) 219-221.

[586] Gerard, Chaliand. Ed. 1994, 430.

Rāwandī refer to poetry to support many of his moral statements, including the poetry of Ferdowsī. In commentating on hostility, for example, Rāwandī cites the following line:

<div dir="rtl">که دشمن که دانا بود به ز دوست</div>

'For a knowledgeable enemy is preferable to an ignorant friend.'

The notions of the 'self' and the 'other' revolve around knowledge and ignorance. Knowledge makes what is essentially disagreeable agreeable. It sets down new criteria for evaluating relationships of friendship and hostility.

Sa'dī: On Enmity and Tolerance

The most important poet of thirteenth century in Iran and standing next to Jalāl al-Dīn Mowlavī (Rūmī) was Muslih al-Dīn Sa'dī (c. 1209-1291 CE) still most popular poet in Iran for his didactic literature reflected in poetry in his first book *Būstān* (Orchard) and in prose in his second book *Gulistān* (Rose Garden).

Sa 'dī's poetry, mostly proverbial in Persian literature, promotes tolerance and peaceful coexistence with 'Others.' One of his frequently quoted maxims is the following:

<div dir="rtl">آسایش دو گیتی تفسیر این دو حرف است با دوستان مروت با دشمنان مدارا</div>

The comfort in both words result from two words:
Treating friends with all knightly virtues (specially generocity) and enemies with tolerance

In Sa'dī's view, "Resolving a conflict by flattering the enemy is better than launching a war."[587] He emphacises on war as a last resort: "If all political tactics prove useless, however, drawing the sword becomes legitimate. Nonetheless, if the enemy asks for peace, be conciliatory, but if he persists in being bellicose, you must take up the challenge."[588] For Sa'dī, the legitimacy of the conflict is very important. "If he (the

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[587] Gerard, Chaliand. Ed. *The Art of War in World History*, (Berekly, Los Angeles, London: University of California Press, 1994) 451.

[588] Gerard, Chaliand, 1994, 451.

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enemy) is the one who seeks an armistice," Sa'dī asserts, "your authority is a thousand times greater, and it is he who unleashes war, you will have no accounts to render to the supreme ruler of the universe on the day of resurrection." He concludes, "But, faced with a vengeful enemy, you must prepare for war; kindness to a hate-filled man is an error."[589]

Conclusions

Islamic beliefs and local norms, which often lie rooted in pre-Islamic traditions, proved to be mutually dependent, and play as factors in shaping attitudes toward the cause and conduct of war in *adab* literature. These attitudes often varied from the legal precepts fixed in books of jurisprudence. A close reading of Iranian literature shows that there was no facile celebration of war as an aristocratic pastime. Instead the literature presents many arguments for avoiding wars. When conflict was inevitable, the texts emphasize its horrors as well as its contradictions, and that it fundamentally opposed the notion of *kherad*, the wisdom that was regarded as the well-spring of a better society. However, much of the literature is the work of scribes, people of 'the pen' who served the people of 'the sword.' As a result, the texts are full of paradoxes and contradictions reflecting the different outlooks of the authors and their intended audiences. These writers interjected Islamic notions of war ethics among peoples and in circumstances very different from those of the early Muslim world.

So far a selective overview of the intellectual responses of the Muslim world has come to a full cicle. The next chapter will put these responses and reflections into a theoretical and comparative perspective.

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[589] Gerard, Chaliand, 1994, 451.

CHAPTER SIX

THEORIES OF WAR ETHICS:
A COMPARATIVE PERSPECTIVE

> For war is the hardest place:
> if comprehensive and consistent
> moral judgments are possible there,
> they are possible everywhere.
>
> Michael Walzer[590]

This chapter looks, in a comparative manner, into the Western and the Islamic just war and jihād theories and provides a brief comparative history of their relative developments. The impacts of various Islamic schools of jurisprudence and political philosophy on the theory and the practice of war ethics will be discussed. In the end, this chapter will examine three distinctly different theories of Islamic war ethics that represent relevant tendencies among the Muslim scholars. The relevance of these theories to some modern Western theories will also be tackled.

The concept of 'just war' may sound modern; however the contextual arguments embedded in the notion are as old as the history of humanity. The story of war and humanity has origins in sacred and biblical history; the mythical first sin committed by a human being on earth, after being thrown out of paradise, was the killing of Abel by Cain. This murderous act, of course, cannot be defined as war, for the victim (Abel) did not exercise any resistance; however, if the killing of a person constitutes a cardinal sin[591], as it does in almost all religions, the act of war, for many lives that it takes, should therefore be considered as the worst of all crimes. It is ironic, then, that so many wars through the course of human history have been inspired by and executed in the

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[590] Michael Walzer, *Just and Unjust Wars, A Moral Argument with Historical Illustration* (Basicbooks, USA, 1977) 3.

[591] The most severe Qur'ānic prohibition of murder appears in Q.5:32, and Q.4:93. The former reads: "that is why We decreed for the children of Israel that whosoever kills a human being, except (as punishment) for murder or for spreading corruption in the land, it shall be like killing all humanity; and whosoever saves a life, saves the entire human race"; Q.4:93 reads: "any one who kills a believer intentionally will be cast into Hell to abide there for ever, and suffer God's anger and damnation. For him a greater punishment awaits." From Ahmad Ali, Orooj. *Al-Qur'ān: A Contemporary Translation* (Princeton, N.J.: Princeton University Press, 1993).

name of the sacred. Whether they have been caused by sacred or secular motives, wars have also been understood as a reflection of the morality of the participants. In other words, no field of humanity could provide as strong a criteria to judge the morality of any belief or political system as wars do.

The concept of war as the ultimate test of morality is illustrated by Michael Walzer when he asserts that war "strips away our civilized adornments and reveals our nakedness."[592] If morality can be defined as self-discipline against our instinctive emotions, impulses, and rages, then it follows that the most difficult place to show this self-discipline is when the conflict of interests reaches the highest degree; that is in war when life itself is at risk. This is how and why war becomes the ultimate moral test for any moral system, ideology and epic literature.

The just war tradition stands between two extremes: the first is the pacifist position, which is ideally against any use of force. This stance is close to the Platonic position, illustrated by the following sentiment: "But the best is neither war nor faction (civil war) –they are things we should pray to be spared from-but peace and mutual good will."[593] A modern example of this position is reflected in the proverbial statement of Mahatma Gandhi: "I object to violence, because when it appears to do good, the good is only temporary; the evil it does is permanent." The opposite extreme is the unlimited support for war based on an ideological justification, that could also be called 'national interest' and the goals therein.[594] Holy and epic-literature wars, as they are contextualized within religious or nationalistic ideologies, fall somewhere between the realms of limited or unlimited wars. The goal of this chapter is to understand where, within this spectrum of various attitudes regarding war and the methods of war conduct,

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[592] Walzer, *Just and Unjust Wars*, 4.

[593] Plato, *Laws*, 16th Ed., eds. Edith Hamilton and Huntington Cairns, book I, 628c (Princeton, N.J.: Princeton University Press, 1989) 1230.

[594] See James T. Johnston, "Historical Roots and Sources of the Just War Tradition in Western Culture" in *Just War and Jihād: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions,* eds. John Kelsay and James T. Johnson (New York, Westport, Connecticut, London, Greenwood Press, 1991) 3-31.

and in the general context of Western 'just war' theories, Islamic ethics of war are situated.

When discussing war ethics, it is sometimes necessary to discuss legal matters, though strictly speaking these matters are outside of the scope of this chapter.[595] Finnis, in discussing the mutual opposition of war and peace asserts that "sound moral and political deliberation (practice) and reflection (theory) are not legalistic."[596] Morally, peace has two important aspects: first, it is 'the point of war,'[597] and second, within Islamic and Christian principles, it is defined by 'justice,' or the 'tranquility of order'. In other words, peace without justice or tranquility of order, is not peace. Interestingly enough, the terms 'justice' and 'tranquility of order' have almost identical definitions in Islamic and Christian traditions.[598]

Western Theories of War Ethics

Western theories of war ethics, including the 'just war' theory, revolve around three prime questions: first, to what extent is morality relevant to the matters of national interest; second, what are the moral justifications for resorting to war; and third, what are the moral codes of behavior within war. These questions may be subsumed under the rubrics of *jus ad bellum* and *jus in bello*. The first of these questions addresses the

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[595] For a comprehensive and comparative view of Islamic laws of war See Moṣṭafā, Moḥaqqiq-Dāmād. *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (New York: Global Scholarly Publications, 2005).

[596] John Finnis, "The Ethics of War and Peace in the Catholic Natural Law Tradition," in *The Ethics of War and Peace, Religious and Secular Perspectives,* ed. Terry Nardin (Princeton, N.J.: Princeton University Press, 1996) 15.

[597] A term used by John Finnis.

[598] St. Augustine defines the 'tranquility of orders', paraphrasing from John Finnis, as "the arrangement of things equal and unequal in a pattern which assigns to each its proper position." See St. Augustine in *De civitate Dei,* ed. and trans., P.G. Walsh (Oxford: Oxbow Books, 2005) 19. 'Justice' on the other hand is defined, within the Islamic tradition, as positioning everything in the place that it was created for (*mā wuḍi'a lahu*). The Shī'ī school of Islam however, views 'justice' as an intrinsic faculty born with every human being which stands outside the faith and according to which all human and divine actions are measured. By implication, such an *a priori* and independent definition of justice, brings the Shī'ī concept of peace close to the Christian view. Shī'ites similarly hold that lasting peace and justice will be established by the reappearance (second coming) of the Shī'ī Twelfth Imam accompanied by Jesus Christ.

causes and goals of war. These causes and goals comprise six main topics: just cause, right authority (who decides for war), proportionality (between the inflicted damage and war's ultimate goals), last resort (war is used only after all other means of conflict resolution have failed), the reasonable hope of success, and right intention.[599]   The rubric *jus in bello* addresses the conduct of war and consequently is concerned with: the boundaries or limits of war, the legitimate extension of war to combatants or noncombatants, the types of weapons used (concerning intended, impact and level of destruction), the treatment of wounded and prisoners of war, and so on.   Three main positions may be identified in the discussion of war. They are: 'pacifist,' 'just-war,' and 'realist.'

Pacifist Theories

The perspective of pacifism rejects the ethical validity of the use of force in absolute terms. Indian 'Gandhism' and some strands of Ṣūfism consider the use of force as evil, tantamount to washing blood with blood. Evil cannot be repulsed or deterred by evil. Koontz argues that the proponents of war usually find a necessity or emergency, and therefore justify war under the excuse that "the heavens are about to fall," but he points out that "there is simply no way to hold the heavens up in the long run."[600] He adds that no one has the "responsibility to violate standards revealed to us in order to help God."[601]

Many Christian pacifists, like Muslim Mu 'tazila, believe in the inherent value of actions (*al-ḥusn wa 'l qubḥ al-dhātī*); it is from this very principle that they conclude that the 'inherently wrong' cannot bring any good. This view replaces 'the power of force' with 'the power of vulnerability.' In much the same way, Shī'ites claim the proverbial 'victory of blood over sword' after Ḥusayn Ibn 'Alī's martyrdom in Karbalā' (d. 680

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[599] These six preconditions for just war appeared in the first major treaty on war written by Alexander of Hales (ca. 1240). See John Finnis, "The Ethics of War and Peace," 18.

[600] Theodore J. Koontz, "Christian Nonviolence: An Interpretation," in *The Ethics of War and Peace: Religious and Secular Perspectives*, ed. Terry Nardin (Princeton, N.J.: Princeton University Press, 1996) 192.

[601] Koontz, "Christian Nonviolence: An Interpretation," 191.

CE). Although Ḥusayn knew the futility of winning in battle, he organized an armed resistance as a matter of principle. In fact, striking similarities are also found between the Christian apocalyptic view and the Shī'ite pacifist; notably, both believing in the use of sword to help usher in the return of Christ and the Shī'ī's Twelfth Imām (al-Mahdi), and therefore the kingdom of God. Incidentally, according to Shī'ite theology, when the occulted Twelfth Imām returns in order to bring back justice to the world, he will be accompanied by Jesus Christ.[602]

The condemnation of war by Christian pacifists precludes most discussion of *jus in bello*. The aim of Christian pacifists, according to Terry Nardin, "is not to develop casuistry of fighting but to re-center the debate by drawing the line between war and peace rather than between fighting fair and fighting dirty."[603] Like for the Muslim Ṣūfis, the real war for the pacifist Christians is in one's thought and his weapon is intellectual. St. Paul writes the following to the Corinthians as reflected in the Bible: "For although we are in the flesh, we do not battle according to the flesh, for the weapons of our battle are not of flesh but are enormously powerful, capable of destroying fortresses. We destroy arguments and every pretension raising itself against the knowledge of God, and take every thought captive in obedience to Christ, and we are ready to punish every disobedience, once your obedience is complete."[604]

Christian pacifists comprise three sub-groups: those who believe in the power of persuasion and example (pacifist), those who emphasize the power of reason and common interests, thus promoting negotiation (abolitionists), and those who advocate nonviolent resistance stressing the power of withdrawing consent. Essentially, their

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[602]According to a Prophetic ḥadīth the Prophet has asserted: "A nation (*umma*) that has me on the top, Mahdī in the middle, and Jesus on its end will never vanish." This is from Muḥammad Ibn Rasūl Barzang, *Al-Ishā 'a li Ishrāt as-Sā 'a* (Cairo, 1103 AH) 112. Another ḥadīth reads: "...And Jesus will stay on Earth for fourty years (once he reappears with al-Mahdī) and will pray behind al-Mahdī." See Abū Zaid Aḥmad Ibn Sahl Balkhī, *Al-Bad' wat-Tārich*, vol. 1 (Paris: leroux, 1899-1919) 192.

[603] Terry Nardin, "The Comparative Ethics of War and Peace," in *The Ethics of War and Peace*, ed. Terry Nardin (Princeton, N.J.: Princeton University Press, Princeton, 1996) 259.

[604] Saint Joseph. *The New American Bible*, (New York: Catholic Book Publishing Co. 1991) 2071.

common ground is that they are all against the power of the gun.[605] According to Finnis, "pacifism is not to be found in the New Testament;" rather, he asserts that the New Testament embodies what is known today as the Catholic natural law of practical reasonableness, [606] and it is this Catholic natural law that contributes to the 'just war' theory.

Hebraic, Roman, and Christian Contributions to the Just War Theory

According to Johnson, the "just war tradition is a major moral tradition of Western culture, shaped by both religious and non-religious forces and taking shape in both religious and non-religious forms within that culture."[607] As for the religious roots of this tradition, Johnson refers to the Hebraic contribution that was formulated by the medieval commentator Maimonides. Maimonides claimed that Judaism recognizes three different kind of wars: first, religious wars, which are fought with destructive force, directly commanded by God and assert mandatory participation for all males;[608] second, defensive wars in which all males must participate, but are not as destructive; and third, optional wars of the kings of Israel, participation in which is excused by other obligations, and in which, for example, proportionality and non-combatancy matters. [609] "On the whole," asserts Terry Nardin, "Judaism accepts resistance, fighting, and killing as necessary for self-defense…and the need to fight is the normal condition of things in a pre-messianic world," but "there are no wars of conversion in Judaism, for a Jewish holy war is a war of extermination, though the conditions justifying wars like those fought against Amalek and Canaan may never be repeated."[610]

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[605] Koontz, "Christian Nonviolence: An Interpretation," 173.

[606] Finnis, "The Ethics of War and Peace," 34.

[607] Johnson, "Historical Roots," 3.

[608] On the ethical qualities of these wars, David Hay points to the Book of Joshua recording that the Jews executed not only the noncombatants but even the animals they seized at Jericho. See David J. Hay, "Collateral Damage?" in Christie, Niall and Yazigi, Maya eds. *Noble Ideals and Bloody Realities, Warfare in the Middle Ages*, (Leiden and Boston: Brill, 2006) 7.

[609] Johnson, "Historical Roots," 7.

[610] Nardin, "Comparative Ethics," 249.

Johnson maintains that the Hebraic tradition, as developed later on by the Christians, only helped the concept of mitigating war or *jus in bello*. In his view, it was the Romans who contributed to the *jus ad bellum*, or the legitimate causation of war.[611] According to Johnson the contributions were several:

> The definition of just cause in terms of three conditions (defense, retaking something wrongly taken, punishment of evildoing), the idea that only the highest authorities in the state could authorize violence on behalf of the state, and such other ideas as the requirements of last resort, proportionality of good to evil done, and the goal of peace.[612]

Christian attitudes evolved slowly. Christians stayed aloof of war for the first Christian century but, disappointed with the delay of the second coming of Christ, they gradually started participating in military service. By the end of the second Christian century, they regarded the Roman state as the provider of "peace and stability necessary to the continued prosperity of Christianity."[613] St. Augustine and his mentor Bishop Ambrose argued this position in the fourth and fifth centuries based on the Christian principles of love for one's neighbor and the obligation to defend him. St. Augustine emphasized the importance of the principle of 'the right intention' over concern for death. Koontz, deeply skeptical of views which emphasize the judgment of action based

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[611] Western war ethics has little background (so far as this author is aware of) in the major ancient Greek works of political philosophy. Plato, for example, does not see that the non-Greek enemies should be subject to any principle of war ethics in battles. He does not recognize any inter-Greek war - what he calls faction, (*470c, 470d*). However, Plato develops some moral codes for the inter-Greek faction such as the prohibition of burning Greek cities (*470b*) or stripping the deceased soldiers (*469c*). As for the Greek prisoners of war he states: "And the man who is taken alive by the enemy, won't we give him as a gift to those who took him, to use their catch as they wish (*468a*)?" See Plato, *The Republic*, Francis MacDonald Conford trans. and ed. (New York and London: Oxford University Press, Twenty-Eight printing, 1965) 170-174. War ethics principles in the practice of the great ancient figures such Alexander the Great is also scant in chronicles, although there are impressive literatures about his war strategies like the one written by the Greek author Arrian (*ca.* 92-175 CE). There is only one reference in his war account of Alexander when he confronted Drius III of Persia. According to Arrian, "...Parmenio (one of Alexander's commanders) went to Alexander's tent and advised a night attack." To this Alexander replied: "I will not demean myself by stealing victory like a thief. Alexander must defeat his enemies openly and honestly." See Gerard Chaliand ed. *The Art of War in World History*, (Berekley, Los Angeles, London: University of California Press, 1994) 183.

[612] Johnson, "Historical Roots," 8.

[613] Johnson, "Historical Roots," 9.

on motives or intention,[614] maintains that any intention that is not understood by the recipient of an action cannot be valued. By intention, he refers to the immediate action that a person may be about to commit. Motive, on the other hand, is the moral spirit within which and the final goal for which one may commit the action.

The contributions of classical culture, in Johnson's view, are essential, as ancient Greece and republican Rome established the principles of statecraft and the concept of the 'use of force' therein. These shaped the codes of chivalry exercised by the Germanic knightly class into the growing tradition of *jus in bello*.[615]

The concept of the just war did not gain wide acceptance until the tenth century. The tenth century, indeed, saw unparalleled violence and lawlessness. However, during this century and the next, the ideas of the 'peace of God' (not harming non-combatants), and the 'truce of God' (prohibition of fighting on particular days) developed. Johnson asserts that with the convergence of these ideas under the rubrics *jus ad bellum* and *jus in bello* in the twelfth century, the just war tradition was established in the high Middle Ages. The *Decretum*, written by a monk named Gratian in the mid-twelfth century (*c.* 1140), systematized these concepts.[616] It referred to such maxims as: one may not commit a lesser evil in order to prevent a greater evil.[617]

Before him, according to Hay, it was Bishop Anselm II of Lucca who in his *Collectio Canonum* (c. 1085 CE) provided the first legal collection in the Catholic tradition that addressed the issue of Christian warfare.[618] Anselm also provided a legal

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[614] Koontz, "Christian Nonviolence: An Interpretation," 187.

[615] Johnson, "Historical Roots," 11.

[616] This very general picture must not give the miss impression that the whole course of these humanitarian developments was steady and benign. See P.W. Edbury, "Crusades Against Christians: Their Origins and Early Development, *c*1000-1216" in Norman Housley, ed., *Crusading and Warfare in Medieval and Renaissance Europe* (Aldershot, Burlington, Sydney: Ashgate Variorum, 2001). He shows how the "peace of God' idea, and the work of Gratian, was heavily abused by the Church, within the eleventh and twelfth centuries to mobilize political crusades, in addition to the ones on 'Muslim Pagans' against other Christians and heretics (like the 1208 war of Pope Innocent III against surrounding regions).

[617] Thompson, Agustine O.P., Trans. *Gratian, The Treatise on Laws, Decretum DD. 1-20*, (U.S.A:The Catholic University of America Press, 1993) 52.

[618] David J. Hay, "Collateral Damage?" in Christie, Niall and Yazigi, Maya eds. *Noble Ideals and Bloody Realities, Warfare in the Middle Ages*, (Leiden and Boston: Brill, 2006) 17.

and theological foundation for papal campaigns against the Roman emperor.[619] According to Hay, it was Anselm who by "adding a distinctly Christian gloss to the epic history of the Jews...argued that campaigns directed against heretics and schismatics could also be acts of love and mercy."[620] Hay points that both Augustine and Anselm justified war as a means to prevent greater evils.[621] War therefore was introduced as a purfying institution. According to Hay, "...the ideology of religious pollution and purification prompted some of the Christian chroniclers to demand the execution of non-Christian civilians as necessary rather than collateral damage."[622]

Johnson argues two important points. First, the corpus of the consensus canonical laws on just war which appeared in the mid-twelfth century set an important standard for future discussions. This occurred only half a century after the inception of the Crusades in 1095 CE. Secondly, chivalric institutions rather than the church played an essential role in the formulation of *jus in bello* laws.[623]

Absent from Johnson's analysis is the interrelationship between these laws and the Crusades, with the flowering of European chivalry and Islamic institutions of *futūwa* during this period.

Jus in bello, went through two major developments before it reaches the modern times. First, it was Hugo Grotius (d.1645 CE) who gave the whole domain of *jus in bello* a conceptual and moral independence from *jus ad bellum.* He stressed that no matter how just or unjust the causes of wars may be, the humanitarian aspects of war must be

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[619] David J. Hay, "Collateral Damage?" 2006, 17.

[620] Hay, "Collateral Damage?" 2006, 17. Compare this view with similar ideas of Muṭahharī in Chapter Three.

[621] Hay, "Collateral Damage?" 2006, 18.

[622] Hay, "Collateral Damage?" 2006, 19.

[623] Johnson ("Historical Roots," 15) maintains that aside from the weapons limit and protection of churchly persons, all other regulations such as, noncombatant immunity (covering women, children, aged, the infirmed, and the mentally impaired, peasants on the land, townspeople, merchants, and other peaceful folks), also the concept of proportionality came directly from the values and practices of chivalry.

respected.[624] The second development was when Rousseau (d.1778 CE) tried to provide full conceptual protection for the individual civilians as opposed to the states which, in his view, were the real party to wars.[625] In this way Rousseau extended the independence of *jus in bello,* that was granted by Grotius, to its full effect and separated state's identity from that of individuals thereby protecting the non-combatants of all warring sides.

The Realist Schools

In its philosophical and ethical construct, Realism partially, if not completely, runs against the central premise shared by the pacifists and the just war theorists, for the Realist school prescribes that morality should not necessarily always govern the state's affairs. This outlook can be termed as conditional political morality. Realists maintain that when it comes to the matters of national security or survival, any moral stance may be broken in both realms of *jus in bellum* and *jus ad bello.* Within these two realms, there can be many situations defined as 'extreme' or an 'emergency;' in such cases, Realists argue that the state can take any defensive or offensive military measures, even if it costs the lives of innocent non-combatants. This extreme Realism has two implications: first, there is no moral value beyond the life itself. In other words, Realism directs preservation of the individual or collective communal life at any cost. The second implication is that once in war, just about anything goes. Both of these tenets of Realism are well reflected in the words of von Clausewitz, who maintains that, "it is natural that the prime cause of existence will remain the supreme consideration in conducting it (the war);"[626] he adds that "war is an act of force...which must lead, in theory, to extremes."[627] It should be noted that Realism in such an extreme sense runs

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[624] For Grotius full discussion see Hugo Grotius, *De Jure Belli ac Pacis,* English Trans. by Francis W. Kelsey, (Oxford: Clarendon Press, 1925).

[625] See Jean-Jacques Rousseau. *Du Contrat Social, Livre I, (The Social Contract)*, Trans. by Maurice Cranston, (New York and London: Penguin Books, 1968).

[626] Karl von Clausewitz, *On War,* ed. Michael Howard and Peter Paret (Princeton, N.J.: Princeton University Press, 1976) 87.

[627] Clausewitz, *On War,* 77.

directly counter to the ethics of Christian pacifists, and its concept of unlimited war also goes against the just war theory.

Mapel states that Realists "are generally resistant to any question of peace with justice, since this would suggest that there can be no peace in the absence of agreement about justice."[628] This may reduce the peace of Realism to simply a practical truce, which is similar to the Hobbesian view of international relations as a state of permanent potential contention. However, Realists do have moral concerns, but they maintain that the immorality of war simply is inferior to a greater morality, that is the preservation of collective lives in the sense of nations.[629]

It is important to note that in the context of the ethical arguments in the previous chapter, in giving primacy to prudence over moral or even utilitarian concerns for war, Realists may simply fall into the realm of moral relativism if they fail to provide solid and absolute definitions for notions such as 'threat,' 'aggression,' 'national sovereignty,' and 'national security.' But such solid definitions, as is contemporarily understood, are a highly implausible task regarding all the four realms. The Realists' moral relativism may seem to make them more aggressive and prone to war than the various religious and ethical moralists. However, in Mapel's point of view, "because realism refuses to justify war on legal, moral, or religious grounds, it is a doctrine that in some respects limits violence."[630] Mapel continues, "…in criticism of realism, it may be said that realism is more willing to permit aggression and less willing to oppose it than other traditions. In reply, it may be said realism is more tolerant of peaceful negotiation with the devil than other traditions, on the grounds that negotiation is usually less risky and less destructive than confrontation on the basis of principle."[631]

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[628] David R. Mapel, "Realism and the Ethics of War and Peace," in *The Ethics of War and Peace*, ed. Terry Nardin (Princeton, N.J.: Princeton University Press, 1996) 56-7.

[629] In showing a moral border between realism and the natural law that is the basis of the just war theory, Terry Nardin refers to natural law's principle of self-defense that is more constraining than the realist's expansive goal of self-preservation. Nardin, however, maintains that some moral principles like righting of a wrong, restoring a damage, or punishing the wrongdoer, may make natural law more violent that realism (Nardin, "Comparative Ethics," 250-51).

[630] Mapel, "Realism and the Ethics of War and Peace," 60.

[631] Mapel, "Realism and the Ethics of War and Peace," 61.

As is the case for other war ethics theories such as pacifism and just war school, the questions of 'intention' and 'motive' play an important role within Realism. The Realist schools believe in the primacy of motive over intention.[632] War, in their view as a form, means, or intention (however evil it might be), is justified in the way of attaining, and in the spirit of, security. It is within this equation that realists justify the ends of both preventive and pre-emptive wars.[633]

Two important conclusions can be drawn: first, Realism, by having an open hand in resorting to war, and avoiding the ideological or religious demonization of the enemy, has greater flexibility in international affairs than its rival ethical schools. Secondly, because of the above factors, realism makes international transformation more possible and desirable, which may explain why Realism is the predominant norm in contemporary international relations. However, critiques of Realism maintain that the Realist moral ground is not necessarily satisfactory. Realism in fact seems to be religiously and fanatically state-centric to the extreme that it can easily come to conflict with the wish of the individual subjects; in this way it is a form of ideology. The Realist Niebuhr, consequently, has posited two distinct moral systems, one for the individual and the other for the society or the state.[634] Conventional Realists, nevertheless, prefer morality of the greater society to that of the individual. In this sense they disagree with the autonomy-centric Kantian and Utilitarian ethics that were discussed in the previous chapter. For the Kantian school, citizens' freedom is superior to any social values. Besides, as Finnis has asserted, for Kant there is no end beyond the very person of human being.[635] For Utilitarianism, the majority may decide that their happiness is achieved by something other than the fixed ultimate value of the realist school i.e. the state's security or national interest. Strong Realism, moreover, denies the relevance of

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[632] As mentioned, motive is the ultimate goal for a venture but intention is the immediate act one implements in order to reach that goal.

[633] Preemptive war is known conventionally as a war waged in the face of an immediate threat. Preventive war, on the other hand, seeks to check a threat that may come in the long run.

[634] Mapel, "Realism and the Ethics of War and Peace," 71.

[635] Finnis, "The Ethics of War and Peace," 21.

morality to the matters of international relations including war and peace. [636] As Jeff McMahan explains, 'weak Realism', conversely, does away with morality only in cases of national emergency.[637]

The Proliferation of Theories and Vague Conceptual Boundaries

The previous discussion of this chapter has summarized the most important features and arguments of the principal Western war theories. However, these theories have developed so extensively that it is virtually impossible to reduce them to discrete schools of thought. It has been noted that Pacifism has three subdivisions. According to McMahan there are three major tendencies within the Realist school, namely the 'strong', the 'moderate,' and the 'weak' Realism. The 'moderate' tendency has four subdivisions of its own.[638] The same is true for just war theory. The increasing complexity and fluidity of international relations has, moreover, blurred many conceptual boundaries. As McMahan observes, it is hard today to consider 'humanitarian intervention' as an act of aggression.[639] Though it is often violent, Finnis has identified problems in distinguishing between defense and offense, punishment and defense, and militant and non-militant.[640] However, given that the purpose of discussing these theories is solely to establish a conceptual framework for the study of Islamic war theories, the above generalizations may be useful.

One of the principal questions in Western theories of war ethics is the extent to which morality is relevant in the decisions leading to the initiation of war and peace, and in their inherent qualities. The degree of relevance varies from one school to another. For example, the Pacifist school believes in the absolute primacy of morality. As one moves from Pacifism to just war theories, and then, within Realism, from the

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[636] Jeff McMahan, "Realism, Morality and War," in *The Ethics of War and Peace*, ed. Terry Nardin (Princeton, N.J.: Princeton University Press, 1996) 79.

[637] McMahan, "Realism, Morality and War," 83.

[638] McMahan, "Realism, Morality and War," 82.

[639] McMahan, "Realism, Morality and War," 84.

[640] Finnis, "The Ethics of War and Peace," 21-2, 27.

'weak' to the 'strong' tendencies, the relevance of morality gradually erodes. Strong Realism, in fact, condones 'war for the love of war.' This resembles the City of Domination described by al- Fārābī. While no clear school can be identified in Islamic tradition with Pacifism,[641] there are many parallel theories to just war and, to some extent Realism.

War Ethics in Islamic Traditions

As mentioned in Chapter Two and Four, it is difficult to draw a clear line between ethics and law as separate disciplines; however there are many possible overlaps between the two realms. This section tries, however, to examine the Islamic ethical tradition on war in the sense that the spirit, and not the body of the positive laws on war will come under scrutiny. The Islamic tradition also refers to a vast and rich ḥadīth, *sīra*, (words and deeds of the Islamic role models specially of the Prophet), and *tafsīr* (the Qur'ānic exegetical) literatures; again, these traditions will be examined through their ethical perspective. The *adab* literature as noticed in the previous chapter is also a major contributor to the Islamic tradition on war. The sixth source of Islamic ethics, namely the philosophical tradition has already been tackled in Chapter Four.[642] Therefore, the following discussion is confined to the contributions of the ethical spirit of *fiqh,* ḥadīth, *sīra,* and *tafsīr* to Islamic war ethics.

The Questions of 'Militant Ethos' and 'Total Community'

A number of Western scholars have long suggested that political interest in combination with the possibility of forging ḥadīth, and coercing favorable legal judgments suppressed humanitarian concerns in jurisprudence regulating Muslim warfare. Some, like Hodgson, have claimed that "Muhammad's prophethood, in fulfilling the

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[641] Except, however, if one considers the attitude of the early Meccan Muslim community, or some of the theoretical Ṣūfi approaches called 'total peace' (*ṣulḥ kull*) as separate war ethics schools.

[642] The six sources of Islamic ethics are: first, the Qur'ān and its exegesis (*tafsīr*), second, jurisprudence (*fiqh*), third, the words of the Prophet and other authorities –such as Imams (ḥadīth), fourth, the practices of and precedents by the Prophet and other authorities (*sīra* or its Arabic plural *Siyar*), fifth, the traditions of aphorism, and collective visions based on historic and intellectual experiences (*adab*), and sixth, philosophical thoughts.

monotheistic tendency toward a total religious community, at the same time, left his community with that temptation to a spirit of exclusivity that went with any vision of a total community and that received appropriate expression in warfare."[643] In response, Martin has argued that such views can be misleading. They have led Western scholars "to the conclusion that there is a discernible ethos of violence in Islamic society, not the pathos of ideals leading to tragic consequences but a conscious ethos of violence."[644] This essentialist line of analysis claims simply that if Muslims failed, then something should be amiss in the very moral core of Islam. More profound analyses, however, reach different conclusions.

Militants and Texts at War

Recent scholarship provides a more nuanced view. Firestone is far less text-sensitive than reader-sensitive; he maintains that scriptures by themselves carry various possibilities of misinterpretations. He writes:

> Anyone who can read is able to find excerpts in translation from the Bible and from our Talmud and *midrash* that would curdle the blood of any innocent reader who doesn't know the context of the citations. Our great King David arranged the murder of an innocent man because he lusted over the poor man's wife (2 Samuel: 11). Rabbis incinerate their opponents (Shabbat 34a, Sanhedrin 100a). The Torah even calls for mass extermination, for genocide of the native Canaanite inhabitants of the land (Deuteronomy 7). It is just as easy to find violent material in the Qur'ān and in the second most important source of Islamic religious teaching: the ḥadīth literature (parallel to Oral Law in Judaism).[645]

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[643] Richard C. Martin, "The Religious Foundations of War, Peace, and Statecraft in Islam" in *Just War and Jihād: Historical and Theoretical Perspectives on War and Peace in Western and Islamic Traditions* eds. John Kelsay and James Turner Johnson (New York, Westport, London: Greenwood Press, 1991) 91-119.

[644] Martin, "Religious Foundations," 108.

[645] Reuven Firestone, "Islam Hijacked," *The Jewish Journal of Greater Los Angeles*, September 28, 2001. Also the following statement by Jesus Christ falls into the same category of militant statements: "Do not think that I have come to bring peace upon the earth. I have come to bring not peace but the sword. For I have come to set a man 'against his father, a daughter against her mother, and a daughter –in-law against her mother-in-law; and one's enemies will be those of his household.'" See Saint Joseph, *The New American Bible*, (New York: Catholic Book Publishing Co. 1991) Matthew.10:34-36, p. 1714.

After examining a wide range of sources, Firestone argues against the 'evolutionary theory' which asserts the gradual appearance and dominance of militant Islam. Instead, both the militant and pacifist or moderate groups existed from the beginning vying with one another and justifying their respective positions by Qur'ānic citations. Firestone contends, in the end, the militant groups won out.[646] He argues that "their program is supported by militant scriptural passages, especially in what are dated as the 'later' revelations according to the 'evolutionary theory' . . . but because Scripture can not be erased, something had to be done...the theory of *naskh* (abrogation) accounts for this problem." [647] The institution of the 'sacred months' (*al-ashhur al-ḥurum*)[648] moderated this victory.[649] Firestone's discussion focuses on the initiation of war, rather than laws and ethics for the conduct of war, that is, the obligation of a Muslim warrior or state to conquer the world and impose the laws of Allāh.

Jurists' Approach to the 'Self' and to the 'Other'

Approaches of various legal schools toward the ethics of war depended on their perspective of the 'Other,' whether non-Muslims or non-conformists. The tolerant and humanistic approach of Abū Ḥanīfa to the cultural circumstances of various Muslim communities, and the personal opinions of other jurists reflected concurrently his moderate view about the 'Other,' and the 'Self.'

Khadduri suggests six different stages of development for Islamic civilization thus far.[650] At each stage, the various jurists attempted to reconcile the socio-political realities with Islamic ideals. Sunni jurists in particular developed a distinct

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[646] Reuven Firestone, *Jihād: The Origin of Holy War in Islam* (New York, Oxford: Oxford University Press, 1999) 68.

[647] Firestone, *Jihād*, 68.

[648] The four months in which war were forbidden. This law of war was inherited from pre-Islamic Arabian society.

[649] Firestone, *Jihād*, 68.

[650] These stages are: first the City-State (622-632), second the Imperial (632-750), third the Universal (750-ca. 900), fourth the Decentralization (ca. 900-c.a. 1500), fifth the Fragmentation (c.a. 1500-1918), and sixth the National (1918-...). Stages are taken from Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore: Johns Hopkins Press, 1955) 20.

interpretation of the Qur'ān which may be read, at least in part, as an apologia for the conquests of the mid to late seventh century.[651] Moral and non-moral (political, religious and military) factors both played a role in the development of the concept of justice in war.[652] Al-Māwardī (d.1058 CE), one of the most prominent Islamic political philosophers, living in a period of social and political decentralization and fragmentation, developed a theory which modified the monistic doctrine of the caliphate to the political realities of his time.[653] Al-Māwardī states that self-appointed provincial rulers must receive recognition from the caliph stressing the latter's ultimate authority. Many independent and semi-independent states existed in the Islamic world. Perhaps, because of the relatively free intellectual space resulting from this multiplicity, al-Māwardī was able to imbue his political philosophy with humanism as did his contemporary, Ibn Miskawayh.

Once al-Māwardī accepted the reality of multiple political states and the separation of religious from political authority (though such political power was gained by usurpation), his conception of the Islamic 'Self' approached a pluralistic vision.[654] The change of the unified 'Self' to multiple 'Selves,' inevitably broke the monolithic image of the 'Other,' and, along with it, the sharp lines between the 'abode of peace' (*dār al-Islām*) and the 'abode of war' (*dar al-ḥarb*).

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[651] Abdulaziz A. Sachedina, "The Development of Jihād in Islamic Revelation and History," in *Cross, Crescent, And Sword: The Justification and Limitation of War in Western and Islamic Tradition*, eds. James Turner Johnson and John Kelsay (New York. Westport, CT., London: Greenwood Press, 1990) 35-50.

[652] John Kelsay, "Islam and the Distinction between Combatants and Noncombatants," in *Cross, Crescent, And Sword: The Justification and Limitation of War in Western and Islamic Tradition*, eds. James Turner Johnson and John Kelsay (New York. Westport, CT., London: Greenwood Press, 1990) 198, 200.

[653] Khadduri, *War and Peace*, 21.

[654] Abū al-Ḥasan al-Māwardī, *Kitāb al-Aḥkām al-Sultāniyya,* ed. M. Enger (Bonn: n.p., 1853). Māwardī's critics such as, H. A. Gibb, maintain that by theorizing and legitimizing the separation of political authority of the sultān and the religious authority of the caliph/imām, Māwardī has weakened the rule of the *Sharī'a* (Islamic law). Perhaps a better conclusion is that by theorizing this separation, he has injected a measure of humanism into the body of law and helped it, at the general level, to get rid of some of its unnecessary edges both within the 'Self,' and also between the 'Self' and the 'Other.' For Gibb' criticism of Māwardī, see H. A. R. Gibb, "al-Māwardī's Theory of the Khilāfah," *Islamic Culture*, Vol. XII, 1937, 291-302.

This view is echoed among later jurists. One of the most important authorities of Sunnī Islam during the twentieth century, Shaykh Maḥmūd Shaltūt of al-Azhar University supported this idea of pluralism referring to the Qur'ānic verse Q.49:13: "we have created you as peoples and tribes to make you know one another," as the source of scriptural support for his pluralism.[655] By understanding 'Others,' one may recognize and know the 'Self.'

The Ethics of the *Siyar* Literature

Early on, the extensive Islamic traditions in each of the four authoritative fields *fiqh*, hadīth, *sīra*, and *tafsīr*, contributed to the first major Islamic legal treatise on war, which appeared in Muḥammad Ibn al-Ḥasan al-Shaybānī's (c.189/804) *Siyar*.[656] This treatise appeared about four centuries before the first collection of the Christian canon law, Gratian's *Decretum* (*c.* 1140 CE).[657] For *Siyar's* content that goes beyond mere regulations on war, Philip Jessup compares it with the work of Hugo Grotius (d. 1645 CE), known as the father of Western international law.[658]

Al-Shaybānī, a disciple of Abū Ḥanīfa (d.150 AH/768 CE), a founder of one of the four formal Sunnī legal schools, inherited the latter's flexible approach to legal matters relative to the other three Sunnī schools (Mālikī, Shāfiʿī, and Ḥanbalī) which were stricter in certain areas of legal approach.[659] According to Majid Khadduri, Abū

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[655] Tibi, "War and Peace in Islam,"136.

[656] Shaybānī, Muḥammad ibn al-Ḥasan. *The Islamic Law of Nations: Shaybānī's Siyar*, trans. Majid Khadduri, (Baltimore: Johns Hopkins Press, 1966). Shaybānī's *Kitāb al-Siyar al-Kabīr* received an elaborate commentary by Moḥammad Ibn Aḥmad Sarakhsī (d. 483AH/1090CE) called *Sharḥ al-Siyar al-Kabīr*.

[657] According to Khadduri, Shaybānī was the most important jurist writing on *Siyar* but not the first one; among the first authors he mentions: Ibrāhīm al-Nakhaʿī (d. 95 AH/714 CE), Ḥammad b. Sulaymān (d. 120 AH/738 CE), al-Shaʿbī (d. 104 AH/723 CE), Sufyān al-Thawrī (d.161 AH/738 CE), Mālik b. Anas (d.179 AH/796 CE) Zuhrī (d. 124 AH/742 CE), Rabīʿa (d. 136 AH/754 CE), ʿAbd al-Raḥmān al-Awzā ʿī (d. 157 AH/774 CE) and Shaybānī's teacher Abu Ḥanīfa (d. 150 AH/768 CE), from Shaybānī, *The Islamic Law of Nations*, 22; Note should be taken that Abu Ḥanifa was a student of Jaʿfar al-Ṣādīq (d. 148 AH/765 CE) known to be the founder of Twelver Shīʿite jurisprudence.

[658] Shaybānī, *The Islamic Law of Nations*, vii.

[659] Al-Shāfiʿī opposed non-Prophetic sources of ḥadīth, Mālik stressed on the authenticity of the Medinan ḥadīth, and Ibn Ḥanbal was relying solely on ḥadīth but on the entire body of ḥadīth literature

Ḥanīfa, in representing a higher level of juristic speculation, was perhaps the first jurist who set of principles governing Islam's external relations with other communities.[660] Abū Ḥanīfa is known to be a cultural conformist for the incorporation of various customary rules (*'urf*) into the body of Islamic law, and also for relying on personal opinion (*ra'y*) as a source of his jurisprudence. His school therefore was closest, among all other Sunnī schools, to natural law and objective ethics as discussed in the previous chapter.

The very flexible approach of Abū Ḥanīfa, reflected in the views of his student al-Shaybānī, influenced the moderation of the most important *Siyar* literature in Islam. When al-Shāfiʿī rejected non-Prophetic traditions as reliable source of law, certainly the body of *Sharīʿa* was shorn not only of many ḥadīths, some of which possibly forged to serve certain interests of the various successor regimes after the Prophet, but of early Muslim social history as well. His position against personal opinion rigidified the structure of his jurisprudence with negative ramifications in the fields of war and peace.[661] It is because of such rigidity, for example, that he (al-Shāfiʿī) limited the duration of peace with the abode of war (*dār al-ḥarb*) to the maximum of ten years, just because the al-Ḥudaybiyya peace treaty that the Prophet sanctioned, stipulated exactly that period of time.[662] Similar approach also led him to make radical and harsh rulings on the treatment of prisoners of war.[663]

(without filtration). As a result, Abū Ḥanīfa appeared to be the most flexible, Ibn Ḥanbal the most traditionalist, and al-Shāfiʿī the best systematic and abstract thinker among the four. Ibn Ḥanbal however, because of his indiscriminate position on the entire body of ḥadīth adopted a part of early Muslim social history.

[660] Al-Shaybānī, *The Islamic Law of Nations*, 25.

[661] It is for this position, according to E. Chaumont, that "al-Ghazālī attributes to him the maxim 'whoever ventures a law based on juristic preference has forged the Islamic law-free translation (*man istaḥsana fa-qad sharaʿa*). This maxim is just opposite the Shīʿī maxim whatever is the ruling of the Islamic law, is sanctioned by the reason as well- free translation (*kullu mā amara bihi al-sharʿ amara bihi al-ʿAql*). From *Encyclopædia of Islam*, new edition, s.v. "Al-Shāfiʿī" by E. Chaumont.

[662] This treaty, signed between the early Medinan Muslims and the Meccan pagans, will be referred to in more details in the next chapter.

[663] Kelsay asserts: "The Prophetic reports previously cited indicate that children, women, and others are exempt from killing in war. But it is not altogether clear how these exemptions are to be taken. Some jurists (e.g., al-Shāfiʿī, d.820) distinguish between women who are polytheists and women who are Jews and Christians. The former should be killed, while the latter should not. See John Kelsay, "Islam and

Jurists' Theoretical Clashes over War and Peace

Any readers of al-Shaybānī's *Siyar* would easily conclude that normal relations between the Islamic and the non-Islamic world were a state of war. This was perhaps, as John Kelsay points out, because as an Abbasid judge (*qāḍī*), al-Shaybānī presupposed the connection of Islam with the Abbasid's imperial state and its war pursuits.[664] However, as Khadduri stresses, "the object of war was not the annihilation of the enemy," and the jurists "made no explicit statement that the jihād was a war to be waged against unbelievers solely on account of their disbelief (kufr)."[665] Further details of the laws of war as provided by Shaybānī confirm that an elaborate body of law under the rubric of both *jus in bellum* (cause of war) and *jus ad bello* (conduct of war) was devised by the early jurists, apparently to regulate the conduct of war, in particular to limit and reduce the human casualties in wars.

Khadduri emphasizes that Mālik and the early Ḥanafī jurists appear to have advised the Imām to prosecute war only when the inhabitants of the *dār al-ḥarb* came into conflict with Islam.[666] He explained: "...it was Shāfiʿī who first formulated the doctrine that the jihād had for its intent the waging of war on unbelievers for their disbelief and not merely when they entered into conflict with Islam . . . jurists who came afterward, and up to the very decline of Islamic power, merely introduced refinements and elaborations of these basic principles."[667] It is perhaps for the wide predominance of this hegemonic opinion that scholars such as Emile Tyan interpret jihād as a perpetual

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the Distinction between Combatants and Noncombatants," in James Turner Johnson and John Kelsay eds. *Cross, Crescent, And Sword: The Justification and limitation of War in Western and Islamic Tradition,* (New York. Westport, Connecticut. London: Greenwood Press,1990), 201.

[664] Kelsay, "Islam and the Distinction Between Combatants and Noncombatants," 199.

[665] Khadduri, *War and Peace,* 53, 58.

[666] Khadduri, *War and Peace,* 58. See also Moṣṭafā Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws,* (New York: Global Scholarly Publications, 2005) 92.

[667] Khadduri, *War and Peace,* 58.

religious duty and an institution that should help Islam to embrace the whole universe.[668]

Like Khadduri, Mottahedeh and al-Sayyid argue that such an interpretation of jihād that gives it a duty-bound, universal, and perpetual character, was not the only normative interpretation prior to al-Shāfiʿī. They also assert that Sufyān al-Thawrī (d. 161 AH/778 CE), unlike in Tyan's opinion, was not the only jurist who interpreted the obligatory jihād only in a defensive sense.[669] Mottahedeh and Sayyid, from their examination of Mālik, Awzāʿī, his Khurāsānī student ʿAbdullah Ibn Mubārak (d. 181 AH/797 CE) and ʿAbd al-Razzāq al-Sanʿānī (d.211 AH/826 CE) who collected the views of the Ḥijāzī and Syrian jurists on jihād, came to the conclusion that the view of jihād conceptualized as obligatory aggressive war came to be the prevalent opinion in the second half of the second/eighth century.[670] The change in outlook was influenced by Umayyad's need to promote their frontier war with the Byzantines. As a result, the Syrian school of jihād[671] was more militant than the quietist Ḥijāzī /Medinese school.[672]

The radicalization of jihād took two major steps: first, the militant jurists made an attempt to organize the relevant verses in chronological order so that the purported verse (or verses, according to some) of the sword, which made war a perpetual and permanent obligation of the Islamic community came last and therefore abrogated the earlier verses which could have allowed the development of a more moderate position.[673] Secondly, as early as in the first half of the second/eighth century, the term *'dār al-ḥarb'*

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[668] *The Encyclopaedia of Islam,* new edition, s.v. "Djihād" by Emile Tyan.

[669] Roy Mottahedeh and Ridwān al-Sayyid, "The Idea of Jihād in Islam before the Crusades," in *The Crusades From the Perspective of Byzantium and Muslim World,* ed. Angeliki E. Laiou and Roy Parviz Mottahedeh (Washington D.C.: Dumbarton Oaks, 2001).

[670] Mottahedeh and al-Sayyid, "The Idea of Jihād," 26.

[671] The Syrian sect was led by Awzāʿī and Ibn Mubārak, and taken to its peak by al-Shāfiʿī and Sarakhsī (d. 483 AH/1101 CE). Mottahedeh and al-Sayyid stress that although Ibn Mubarak was as belligerent as his mentor Awzāʿi, he incorporated the role of government and individual in the concept of jihād.

[672] The Ḥijāzī/Medinese sect was led by Mālik and Abū Ḥanīfa, followed by al-Shaybānī and Abū Yūsuf.

[673] Mottahedeh and al-Sayyid, "The Idea of Jihād," 28.

213

was created. The dichotomy between *dār al-harb* and *dār al-Islam* perpetuated the dual view of the self and the other which presumed a constant state of antagonism.[674]

Al-Shāfiʿī promoted the more militant Syrian school soon afterwards and made it the normative theory. Despite his militant position, he also suggested a new realm in international relations named 'the abode of covenant' (*dār al-ʿahd*). In this way, he softened the belligerent content of 'Others,' and thereby reduced, to certain extent, the inevitability of the Muslim versus non-Muslim clash. Nevertheless, by looking at jihād as an inalienable principle of Islam whose systematic practice and implementation was at least as important as other major Islamic tenets such as prayer and fasting, Shāfiʿī and his followers made the institution of jihād easily available for rulers who needed to resort to periodic wars for worldly motives.

It is important to note that the position in support of primary (offensive) war and the interpretation of jihād as an eternal, permanent, and collective duty to fight against disbelief was so radical that even a staunch traditionalist such as Ibn Taymiya (d.1327 CE) denied this interpretation and called jihād the greatest compulsion in religion.[675] He stressed, "That Muslims have allowed war is because the enemy has authorized war." [676] Preferring an ethical perspective over a judicial one, he came to the conclusion that compulsion cannot, by definition, attain any merit. There was a clash here between the spirit of the law and its body, or essentially, between ethics and law.

Perhaps the climax of this ethical-juridical paradox appears when Islamic law recognizes the individual as a subject in the international theatre. This notion provides the theoretical potential for modern Muslim nations to embrace the internationally

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[674] It seems that Mottahedeh and Sayyid attribute the dual view to Muḥammad Nafs az-Zakiyya.

[675] Paraphrased by Khadduri, *War and Peace*, 59, from Taqī al-Dīn Ibn Taymiya, "Qāʿida fī Qitāl al-Kuffār," in *Majmūʿat Rasālāt*, ed. M. Hamīd al-Fiqqī (Cairo: n.p., 1949) 123. Note should be taken That Ibn Taymiya, issued a *fatwa* that called for jihād against a few Shīʿī sects including the Nosairiya (a group of extremist Shī ʿites that elevated ʿAlī's status to divination) among the most obligatory of all *Sharīʿa* rulings (more important than jihād with infidels). See ʿAbd-ur-Raḥmān, Badawī, *Madhāhib al-Ismamiyin* (*The History of Islamic Theological Speculations*), 421. Since its issuance till modern times, this *fatwa*, has caused many extremist attempts to exterminate Shīʿ ī communities in various regions.

[676] Quoted from Ibn Taymiya's *Risāla al-Qitāl* in Moṣṭafā Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (New York: Global Scholarly Publications, 2005) 92.

recognized human rights. However to the contrary, some of the militant/traditional views such as the one on *dār al-ḥarb*, inhibit the potential for participating constructively in international relations as well as for global human rights. Khadduri refers to this paradox from a moral perspective when he asserts that,

> The historical experiences of Islam, indeed the historical experiences of all mankind, demonstrate that any system of public order, on the national as well as the international plane, would lose its meaning were it divorced completely from moral principles.[677]

Hashmi similarly observes that, "much of the controversy surrounding the concept of jihād among Muslims today emerges from the tension between its legal and ethical dimensions."[678] He points out that the consequence of this tension is the stagnation of the medieval legal theory. He echoes the sentiments of other Islamic scholars such as Fazlur Rahman, when he asserts that "with the rise of the legalistic tradition, ethical inquiry became a narrow and secondary concern of Islamic scholarship."[679] While it is true that the rise of Islamic legalism (and not the law) has resulted in a decline of ethics, as already shown in some details, roots of divergent views on war ethics existed long before medieval *sharī'a* ceased to meet the needs of various Muslim states.[680] It can be argued that various tendencies regarding both the cause and the conduct of war already existed in the time of the Prophet as patterns of behavior, and not only because of a moral shift in the Muslim community from a Meccan moralist/pacifist posture to the Medinese legalist/activism. These moral tendencies in fact had also something to do with the very character of the early companions of the Prophet.

The following section of this chapter will briefly discuss these tendencies and to centain extent clashing views, summed up into three schools or theories of war ethics in Islam based on the evidences that this thesis has so far demonstrated.

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[677] Khadduri, *War and Peace*, 69.

[678] Rahman, "Law and Ethics in Islam," 9.

[679] Hashmi, "Interpreting the Islamic Ethics of War and Peace," 147.

[680] Hashmi, "Interpreting the Islamic Ethics of War and Peace," 147.

The Islamic Just War Theories

It has already been noted that the early jurists of the Ḥanafī school, and jurists like Awzāʿī, as well as Mālik, the founder of the Sunnī Mālikī school supported only defensive-not offensive wars. The first four caliphs, however, did not explicitly present a theory on war; their combat legacies demonstrated their distinct and different outlooks towards war and peace. Idiosyncrasy had a clear impact.

The Prophet Muḥammad referred to these different attitudes with the contrasting metaphors of 'stone' for the militant minded and 'honey' for the moderates. The biographical tradition (*sīra*) does not show any systematic or coherent militant and hegemonic inclination. The Prophet emphatically professed that his mission was primarily ethical.[681] His early campaigns were, in modern parlance, either defensive or pre-emptive. The Prophet himself did not campaign beyond the Arabian Peninsula.[682] He was tolerant of the systematic oppressive and suppressive policies of the Meccan polytheists as is reflected in the Qur'ānic Meccan verses. He was later criticized by some of his Companions for concluding the Ḥudaybīyya peace treaty rather than fighting the Meccan polytheists. Similarly, Abū Bakr, the first caliph after the death of the Prophet, was well aware of the limits of war and humanitarian concerns in his conduct of war.[683] ʿAlī Ibn Abī Ṭālib the third caliph, the cousin, and son-in-law of the Prophet showed his full attention both to the legitimate cause of war (*jus ad bellum*) and the methods of war (*jus in bello*) during the Prophetic wars. In addition, he did not participate in expansionist wars. While it could be argued that this was because of his engagement in domestic wars, he refused to join the conquests at the peak of their popularity under ʿUmar, and ʿUthman the second and the third caliph. ʿAlī asserted to

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[681] 'I was sent to perfect noble qualities of character'; a Prophetic proverbial ḥadīth.

[682] Tyan maintains that "according to a view held by modern Orientalist scholarship, Muḥammad's conception of the jihād as attack applied only in relation to the people of Arabia." See *The Encyclopaedia of Islam*, new edition, s.v. "Djihād" by Emile Tyan.

[683] Abū Bakr's elaborate ruling on *jus in bello* will be discussed in Chapter One.

one of his companions Kumayl Ibn Ziyād: "Oh Kumayl, there is no war except under a just Imām and no booty except if shared with a just Imām."[684]

Ja'far al-Ṣādiq, the founder of the Twelver Shī'ī legal school, who incidentally had Abū Ḥanīfa among his students, also did not support primary (offensive) wars. Led by the formulations of al-Ṣādiq, Shī'ī jurists, for whom 'justice' and 'the right authority' in war were of prime legal and theological importance, declined to support any war (other than sheer defensive actions) in the absence of an infallible Imām.[685] Al-Shaybānī's *Siyar,* which drew heavily from Abū Ḥanīfa, has no reference to primary (offensive) war.

These examples, which show a distinctly ethical approach to war contributed to the foundations of Islamic just war theories with many parallels to Western just war literature. In Hashmi's words, "...there is a growing convergence in conceptions of jihād and just war that permits a cross-cultural dialogue on ethics of war and peace."[686]

Some medieval as well as modern authors of Islamic just war theories claimed that wars in the Islamic context may not be considered legally justified if they lack ethical cause. For this reason, Hashmi argues that the twelfth century jurist and philosopher Ibn Rushd, like many other Muslim writers, "...implicitly, if not always explicitly, separated the grounds for jihād from the grounds for war (*ḥarb*)."[687] The difference here is not just the fact that jihād is a war sanctioned by law; rather it is sanctioned by law on the very moral grounds that can be comprehended and justified by reason. By implication, this means that war has to be of last resort.[688] The ban on 'first

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[684] Mullā Moḥammad Bāgir Majlesī, *Bahār al-Anwār,* Vol.17, Abdulhossein Reza'i trans. and ed. (Tehran: Islamiyeh Bookstore, 1364/ 1984 CE) 278.

[685] According to Twelver Shī'ism, twelve infallible Imāms, starting with 'Alī Ibn Abī Ṭālib, followed by his descendents and ending with al-Mahdī, the occulted Imām, are the sole legitimate leaders of the Islamic community with full authority.

[686] Hashmi, "Interpreting the Islamic Ethics of War and Peace," 147.

[687] Hashmi, "Interpreting the Islamic Ethics of War and Peace," 156.

[688] It was the well known principle and practice of the Prophet that he used to write to the belligerent side before a formal war would be waged. Hashmi asserts: "according to the medieval view, Muslims are obliged to propagate this (Islam) divine law, through peaceful means if possible, through violent means if necessary." See Hashmi, "Interpreting the Islamic Ethics of War and Peace," 165.

strike,' and the fact that only one of the various meanings of jihād refers to war, are additional reasons that support the Islamic principle of 'war as the last resort.'[689]

As for the conduct of war (*jus in bello*), despite the stagnation of legal position since the medieval era, there is a vast and elaborate body of positive law to regulate it. A good part of this rather elaborate law is well reflected in al-Shaybānī's *Siyar* literature.

This literature conveys the following regulations: the prohibition of waging the first strike in battle and inflicting unnecessary damage; condemning of the killing of noncombatants, elderly, women, children, mutilation, treacherous attacks (in breach of existing contracts), and the ill-treatment of prisoners of war; the legality and binding nature of the truce (*hudna*), amnesty (*amān*), ceasefire, peace treaty (*sulḥ*); the principle limiting reciprocation-in-kind; emphasis on the sanctity of and respect for treaty (*al-'ahd*), negotiations with the enemy; and the fair division of booty. [690]

As Nardin points out, "despite many differences…the idea of jihād resembles the Western idea of just war not only in presuming that peace is the end of war but also in insisting that the values of peace govern the conduct of war."[691] The example of the Prophet and other Muslim leaders, Shīʿī formulations and the *Siyar* literature define jihād a war that is morally justified, declared by a legitimate ruler, initiated with the right motive, pursued with the right conduct, and limited to justified ends.

The moral foundations of Western and Islamic just war theories are identical, though their legal supra-structure may differ on certain points. Hashmi states:

"The similarities between Western and Islamic thinking on war and peace are far more numerous than the differences. Jihād, like just war, was conceived by its early theorists

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[689] Many sources of Islamic tradition point to a Prophetic ḥadīth that holds: "The best form of jihād (*afḍal al-jihād*) is speaking out (in critical terms) in the presence of the oppressive ruler (*sulṭān al-jā'ir*). Ṣūfī literature usually interprets jihād, based on a Prophetic ḥadīth, as an inter-spiritual struggle of individuals to purify themselves of their carnal souls.

[690] The greater part of al-Shaybānī's *Siyar* is focused on *jus in bello*. See Shaybānī', *The Islamic Law of Nations*.

[691] Nardin, "The Comparative Ethics of War and Peace," 259.

218

basically as a means to circumscribe the legitimate reasons for war to so few that peace is inevitably enhanced."[692]

As mentioned in Chapter Two, conceptually and in practice there have been three general tendencies and trends within the Muslim traditions on war. The first defines war only as a defensive measure. Here, war can not be conceived as a legitimate means for ideological propagation or domination. The second trend looks at war not only as a means for defense, but also as a legitimate institution for moral interventionism in international relations. Here the world still enjoys a legitimate political and ideological pluralism. The third view, that is the most militant of all, looks at moral, ideological and political pluralism only as a temporary stage. Here war is a legitimate means to ultimately convert the whole world to Islam and bring the entire humanity under one government and one ideology. Like various Western just war theories, each of the three just-war concepts within the traditional and modern Muslim life enjoy a spectrum of subordinate variations. Note should be taken that given the incoherence existing in the views of some of the theorists of just war in Islam, it is quite possible that various aspects of the views of a single theorist may fit two or three separate theories. The following section of this chapter will look at the above conceptual trends.

Theory of Just-Defense

One of the fundamental questions for any just war theory is the causes and grounds of war (*jus ad bellum*). Islamic Just-Defense theorists disagree with the contention of theorists of Total-Islamization that jihād is an obligatory and continual warfare against unbelievers (a category including Jews, Christians, Sabaeans, and Zoroastrians). Medieval sources show that the Muslim Just-Defense theorists used several arguments to support their views. First, they made a clear distinction between the very act of war (*harb*) from jihād. Secondly, they established jihād within the category of *fard kifāya*, which is a moral obligation only for those physically and financially capable, as opposed to *fard 'ayn*, or a legal obligation incumbent upon all – like prayer or fasting.

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[692] Hashmi, "Interpreting the Islamic Ethics of War and Peace," 164.

Furthermore, they argued that the Qur'ānic verses in support of militant jihād must be read in combination with the verses supporting peace rather than abrogating them. The Imām or caliph may decide to suspend jihād if he deems it unnecessary.[693] The formulations of these jurists restricted the meaning and applicability of jihād, and therefore the causality and legitimate bases for just wars.

Most jurists imposed conditions for jihād that restricted the institution even further. Among various Islamic schools, the Shī'ī requirements for the Imām seem to have established the toughest standard, for in this school, a legitimate Imām must be infallible, and for Twelver Shī'ites the number of Imāms are fixed at twelve. In other words, since the greater occultation of the Twelfth Imām, Muḥammad al-Qā'im, also called al-Mahdī in 329 AH/941 CE and until his second coming for the establishment of justice in the world, the Shī'ī view asserts that there is no possible authority who could legitimize a war. Some Shī'ī jurists, nevertheless, maintain that defensive war is an exception to this rule, as self-defense is an obligatory rule no matter the circumstances.[694]

A major controversy between the Just-Defense and the Total-Islamization protagonists has been over the interpretation of campaigns (Forays or *ghazw*s and *sariyya*s) that took place under the rule of the Prophet at Medina (622-32 CE). Both medieval and modern just war theorists, as well as many 'orientalists,' maintain that the campaigns were not of an aggressive nature aimed at annihilating the pagan enemy, rather they were economic missions (as the collected booty was essential for the sustenance of the Muslims in Medina),[695] pre-emptive/deterrent measures (against the threat of the Meccan polytheists),[696] providing incentives for potential converts, or part of Arabian culture, where such forays were often considered legitimate war-games in a

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[693] Hashmi refers to the views of Ibn Rushd's *Bidāyat al-Mujtahid*. See Hashmi, "Interpreting the Islamic Ethics of War and Peace," 156-57.

[694] A critical view of the Shī'ī thought on jihād will be provided in Chapter Three.

[695] Hashmi, "Interpreting the Islamic Ethics of War and Peace," 153.

[696] This is reflected in the views of Muḥammad Haykal in *The Life of Muḥammad*, trans. Ismail Ragi al-Faruqi (Indianapolis: North American Trust, 1976) 204. He is quoted by Hashmi in "Interpreting the Islamic Ethics of War and Peace," 154.

tribal spirit of sport,[697] or reconnaisance measures. Other campaign justifications suggested by Moral-Intervention theorists range from defending the rights of oppressed societies to the expansion of human values on earth through providing and securing religious freedom for oppressed pagan societies.[698] What is common in all of these suggestions is that the Prophetic campaigns were definitely not for mere territorial expansionism or political domination; rather, they were either outreach efforts to let other communities hear about Islam and join the Islamic community, or ventured for self-sustenance and securing freedom for all.

Jihād is designed and introduced by Islam, not as an institution to promote war, but as one that limits and controls it by the instrument of legitimacy, regarding both the cause of war and the authority that orders and leads the war. In this way, Shaykh Maḥmud Shaltūt asserts that war is an immoral situation, and therefore it must not be used to call (da'wa) people to Islam. Referring to Q.10:99, he asks of his fellow Muslims "had Allāh wanted, all people of the earth would have believed in him, would you then dare force faith upon them?"[699] Shaltut stands almost at the brink of pacifism.[700]

Modern Shī'ī jurists like Moḥaqqiq-Dāmād take a longer step forward and sees a complete and genuine compatibility between the highest standards of the present international laws regarding the protection of individuals in war and the rules of war in Islam.[701] For him the highly contractual nature of the Islamic law, and the facts that

[697] Fred M. Donner, "The Sources of the Islamic Conception of War" in *Just War and Jihād*, eds. John Kelsay and James Turner Johnson (New York, Westport, CT., London: Greenwood Press, 1991).

[698] Murtaḍā Muṭahharī, "Jihad in the Qur'ān," in *Jihād and Shahādat: Struggle and Marytrdom in Islam*, eds. Mehdi Abedi and Gary Legenhausen (Houston, TX.: The Institute for Research and Islamic Studies, 1986) 88, 103, 105; note should be taken that besides Muṭahharī, Abū'l- 'Alā Maududī also justifies jihād on the ground of the human rights. Look at Abū'l- 'Alā Maududī, *Jihād fī Sabīl Allāh* (Lahore: Idara Tarjumān al-Qur'ān, 1988) 55.

[699] Tibi, "War and Peace in Islam," 136.

[700] An interesting pacifist view as M. Athar Ali reports, is the sixteenth century view of *ṣulḥ kull* held by the Mughal Emperor Akbar (d. 1014 AH/1606 CE) and his counselor Abu'l Faḍl, inspired by Ibn al-'Arabī, recognized religious diversity, and ordered full tolerance of all other faiths. See *The Encyclopaedia of Islam*, new edition, s.v. "*Ṣulḥ-i Kull*" by M. Athar Ali.

[701] Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 442.

reason is a primary and costumary practice (*'urf*) is an important source (although secondary) of this law, give the Muslim states full flexibility to abide by binding international conventions on war and peace. He asserts that ideological difference can not be a legitimate cause of war simply because all the non-combatants are protected by Islamic law without any prejudice, and therefore a non-combatant non-believer can not be object of any justified war in Islam.[702]

Iskandarī, as discussed in Chapter Three, puts the basis of the Islamic theory of war on the principle of reciprocation-in-kind (*muqābila bi'l mithl*) that falls under the general title of 'retaliation' (*qiṣāṣ*). He therefore limits legitimate war in Islam only to a retaliatory and punitive measure. This view does not leave any space for corrective wars or wars for moral and political expansionism. It is very important to note that the Qur'ānic injunction suggests retaliation-in-kind only as the least preferred measure on the top of which there are two other appearantly preferred measures: financial compensation (*diya*), and forgiveness (*'afw*).[703] These latter options point to humanism that primarily seeks to limit human sufferings as much as possible.

It is quite conceivable that what the Qur'ān suggests to be the preferred norm between the individuals, could be, or perhaps should be, applied in a collective scale to international relations. Such relations are highly contractual, based on mutual respect of all countries and applicable in an essentially pluralistic world where laws are not biased according to belief systems. Such a world defies the dichotomy of *dār al-Islam* and *dār al-ḥarb* that is the foundation of the Total-Islamization theory. Conversly it includes a multiple of abodes such as peace (*al-ṣulḥ*), contract (*al-'ahd*), amnesty (*al-amān*), prevarication (*al-taqiya*), faith (*al-īmān*) and others.

The above arguments rooted both in the traditional and modern legal, moral, and literary sources of Muslim cultures, suggest a genuine and consistant Islamic Just-Defense theory. According to this theory, war is limited in its cause and quality merely to defense and used only as the last resort.

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[702] Moḥaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 91, 402, 440, 441.

[703] See Q.5:45 and Q.2:178 in page 93 of Chapter Three.

Theory of Moral-Interventionism

This theory is perhaps best elaborated on by Muṭahharī and partially by Ṭabāṭabāʾī as mentioned in Chapter Three. According to this theory, the Muslim community worldwide has an eternal corrective, punitive and moral responsibility for the world-order at large. Wherever there is a communal oppression, an international aggression, or even mere lack of ideological freedom, the Islamic community is obliged to intervene, by force, and protect what Muṭahharī calls 'right of humanity,' irrespective of the will of the oppressed or disenchanted communities. Such mission in this theory is divinely ordained and is not contractual in nature. In its conceptual framework, this theory is quite similar to the modern Western interventionist policies in promoting worldwide 'democracy.'

Despite its obligatory global mission, the Islamic Moral-Interventionism does not aim to convert the entire world to Islam, for it is against compulsion in faith. To the contrary the Moral-Interventionit theory allows military intervention in the name of liberating (not dominating) non-Muslims who are under oppression.[704] Its mission will end whenener and wherever the freedom of opinion is fully guaranteed so that people worldwide could be freely exposed to the Islamic call. In other words, all what the protagonists of the Moral-Interventionism seek is that people of the world have complete freedom first, to be exposed and have access to Islam; secondly, to convert to Islam if they will; third, to be rulled by Islamic norms as they wish.

Although this theory pursues a global mission, it nevertheless does not conceive war as the primary means of achieving its goal. War here, as for the Just-Defense theory keeps to be of last resort.

In the Shīʿī version of this theory, given the necessity of the just authority, and until the coming of al-Qāʾim (the Twelvth Imām), Moral-Interventionism is temporarily delayed. Therefore in the present circumstances, the Muslim community has no use of war except merely for defense.

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[704] See Muṭahharī, "Jihād in the Qurʾān."

Theory of Total-Islamization

It has previously been mentioned that the Umayyads' almost permanent contention with the Byzantine empire, in conformity with the expansionist legacy of 'Umar the second caliph, needed and helped a theory to be developed on the basis of the dichotomy of the 'abode of peace (*dār al-Islam*),' and the 'abode of war (*dār al-ḥarb*).' These formulations had no Qur'ānic source, however according to Tibi, they were coined in the age of Islamic military expansionism.[705] This juristic invention, dividing the world into two mutually hostile spheres, was established in a Hobbesian spirit of a state of permanent potential international contention, became the basis for a theory of war that may be called the theory of 'Total-Islamization,' which overlaps with both the Western just war and Realist theories.

Western military realism, or as Tibi has suggested, 'conformism,' has been and still is the predominant model of war practice in most Islamic countries for many centuries. However, the philosophical foundation of this realism, which excludes a part or the whole of the state's international relations from morality, does not conform in principle to Islamic war ethics. Nevertheless, there are features of the Western realist war theory that share aspects of the Islamic theory of Total-Islamization.

Realists, or at least 'weak' Realists, do have moral concerns, although they maintain that the immorality of war simply dissolves within the greater morality that is the preservation of nations. 'Weak' Realism maintains, for example, that under an emergency situation, the moral laws governing war may be disregarded. Likewise, the Islamic theory of Total-Islamization adheres to the proverbial Islamic precept that 'the necessities override the forbidden' (*al-ḍarūrāt tubīḥ al-Maḥzūrāt*); though the 'necessity' may only be defined within a larger moral context. Since Islam has a universal mission for humanity, in the hegemonic view non-believers have to be brought to submission by force, negotiations or by free will. For this viewpoint, truce (*hudna*) and peace (*ṣulḥ*) are of a temporary nature, while war is permanent until the global conversion to Islam is complete. Tibi maintains for exactly this reason, Islamic hegemonic ethics of war are

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[705] There is no Qur'ānic reference to *dār al-ḥarb*, or *dār al-Islam*. Q. 10:25 alludes to *dār as-Salām* which is the abode of peace in eschatological sense. It does not refer to the geopolitical borders of the Muslim world. See Tibi, "War and Peace in Islam," 130.

not compatible with the Western just war theory, for the latter system is not based on an understanding grounded on a religious worldview.[706] However, it could be argued that once a cause of war is justified in either system, any similar situation must again (and permanently so) lead to a just war. In other words, once a war is just, it will remain just under an identical moral system. Therefore, given the same circumstances that entail waging war in defense of a 'nation' or a 'state's security' (both ultimate goals for Realists, which they respect unconditionally and therefore religiously), the behavior of the Realists is not much different from that of Total-Islamization protagonists.

Total-Islamization also has common characteristics with Western just war theory in its judgment of both the cause and the conduct of war. Like the Western school, the Total-Islamization school must have a moral justification to enter a war, turn to war as a last resort, and observe considerable constraints in the conduct of war. However, none of these constraints are absolute and they may be modified if the defeat of the enemy so requires.

It is important to note that the Total-Islamization theory shares a very important tenet with the Western Realist School. For the latter, the 'national interest' stands as the ultimate criteria that must determine the question of war and peace. For the former, a similar concept has been developed by jurists which is called the 'Islamic Interest" (*al-maslaha*). This interest is a principle by which Muslims can legally cancel any provision of Islamic law (*shari'a*) under the justification that by its implementation, the greater interest of the Muslim community may be endangered. As stated by Bassam Tibi, it was this same principle that was used by the nineteenth century Moroccan jurist Ahmad al-Nasiri to claim that "under contemporary conditions (when Muslims are weak and unarmed and their Christian contenders are powerful and heavily armed), the interest of Islam forbids Muslims to wage war against unbelievers."[707] Interestingly, here the theorists of Total-Islamization use a Western Realist argument of the primacy of the community interest, to avoid war.[708]

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[706] Tibi, "War and Peace in Islam," 131.

[707] Tibi, "War and Peace in Islam," 135.

[708] Note should be taken that a leading contemporary Shī'ī scholar Mohammad Husayn

225

Islamic Just-Defense theorists conceived of the greater jihād (*al-jihād al-akbar*) as a struggle against one's own carnal soul. This is why they refer to jihād in its militarist capacity as 'armed jihād' (*al-jihād al-musallaha*).[709] The non-militaristic view of jihād conforms to a widely cited hadīth that states that "the highest form of holy war is speaking out truthfully before an unjust ruler, and being killed for it."[710]

Conversely, theorists of Total-Islamization conceived of the greater jihād as exoteric and by definition an armed struggle. They are often identified as 'fundamentalists' and included the ideologues founders of the Ikhwān al-Muslimīn of Egypt, Ḥasan al-Banna and Sayyid Quṭb who used jihād and *qitāl* (fighting) interchangeably. War, moreover, is not confined, for theses ideologues, to inter-state battles. The 'other' is understood simply in terms of religious affiliation. According to Tibi:

> These "fundamentalists follow the Islamic tradition of not considering states in the context of war and peace; the term war is used here to mean fighting among loose parties of believers and unbelievers, no matter how they are organized politically."[711]

The term jihād has gained a much broader militant meaning in modern times. Contemporary Muslim militants have shown little hesitation in declaring jihād against their Muslim opponents. This has been the case not only in Iran and Egypt, where the

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Ṭabāṭabāʾī, considers the principle of *maslaha* as a psudo-principle invented by the early caliphs to aquire an open hand in the way of their political ambitions. See Mohammad Ḥusayn, Ṭabāṭabāʾī, *Shī ʿah: Les Entretien et les Correspondances de Professeur Henry Corbin avec ʿAllāmah Ṭabāṭabāʾī (Persian)*, 4th ed. (Tehran: Muʾassese Pazhuheshi Hekmat wa Falsafeh Iran, 1383/1984 CE) 214.

[709] Tibi, "War and Peace in Islam," 136, 138.

[710] Goodman, *Islamic Humanism*, 92.

[711] Tibi, "War and Peace in Islam," 137; Tibi quotes Quṭb's important assertion as the following: "The dynamic spread of Islam assumes the form of *jihād* by the sword...not as a defensive movement, as those Muslim defeatists imagine, who subjugate to the offensive pressure of Western orientalists ... Islam is meant for the entire globe." It is important to note that the Iranian fundamentalists of the 1979 revolution have shown more interest to fight and purge their domestic contesters than the alien unbelievers.

term has been used to promote regime change, but among militant groups in post-Saddam Iraq who systematically terrorize Muslims and non-Muslims alike.[712]

Such extremes demonstrate the wide range of usage and abuse of the term jihād. On one side of the spectrum, the concept of jihād treats the 'self' as an alien 'other' that must be ethically tamed. On the opposite side of the spectrum, the arrogant 'self' wages jihād to dominate and 'correct' all the inferior 'others.' Clearly, this latter interpretation is a recipe for permanent war. These are, of course, two sides of the extremes that do not form the mainstream Islamic views of war and peace.

Common Factors in Western and Islamic War Ethics

This section analyzes some commonalities in the thought of Westerners and Muslims on war. According to Nardin, none of the Western and Islamic schools are inherently militarist; all view war as, at best, a means and not as an end in itself.[713] In the words of Mohaqqiq-Dāmād, "All Mālikī, and Hanafī, most Shāfi ʿī and Hanbalī and also many Imāmī (Shī ʿite) *faqīhs* (jurists) have expressed the view that the purpose of jihād and killing is to keep the enemy's bellicosity at bay."[714]

Christian pacifism and Islamic schools of just war emphasize the preservation of life, though this should not be pursued just at any cost. Natural law, which serves as the basis for Western theories of just war, proscribes inflicting damage to an innocent. Christian pacifists reject washing blood by blood, or fighting evil with evil means. Finally, Islam insists on one living with dignity no matter the consequences against one's life. The Realist school, however, does not recognize many of the esoteric principles of other schools; it recognizes no principle above life.

For Realists, or 'consequentialists,' Nadrin asserts that either "cost-benefit reasoning is substituted for the judgments of morality...or morality is often pushed

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[712] The beheading of the Egypt's ambassador to Iraq by the Iraqi militants in July of 2005, is a case where a non-combatant Sunnī Muslim emissary is beheaded by their co-religionists (Sunnī Iraqis), in direct contravention with all of the Islamic rules of war and peace.

[713] Nardin, "The Comparative Ethics of War and Peace," 248.

[714] Mohaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 91.

aside because disaster is a possible consequence of any loss of power."[715] Using this formulation, 'prudence' stands on top of 'morality.' This is very close to the notion of 'the expediency or the interest of the system' (*maṣliḥat niẓām*) used by the Islamic regime in Iran to stand on the top of all other moral concerns. In other words the Islamic rule must be preserved at any cost.

Catholic natural law, Christian pacifism, Judaism, and Islam share a common cosmology at their core on matters of war and peace. According to Miller, all of the four traditions "typically understand war and peace within a larger cosmology, one that is constrained by the conviction of *theodicy*, or divine justice."[716] He further points out that with the exception of Christian pacifists, all traditions "embrace the idea that war can be an instrument for providing human beings their just due" through theodicy and that it is this very theodicy that "produces an *ethical constraint* on the conduct of war in these traditions, especially regarding the morality of means."[717] He holds that whereas Catholic natural law looks for norms of justice through reason, Islam and Judaism find it in revelation. The common ground among these traditions is 'justice.'

Shīʿī Islam builds an ethical bridge between Judaism and Catholic natural laws. First justice is a major principle for Shīʿism, and secondly, according to the proverbial Shīʿī principle, 'all what is ordained by *sharʿ* is dictated by reason and all what is ordered by reason, is ordained by law (*sharʿ*).' Indeed, both Muʿtazilī and Shīʿī theologies maintain the objectivity of justice, whether dictated by reason or revelation.

Against Religious Ethics: A Critique

As expected, there are several counterarguments which bring into question the relevance of religious war ethics. First, religions cannot look at states as moral agents; they are therefore in no position to address inter-state relations, including inter-state war.

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[715] Nardin, "The Comparative Ethics of War and Peace," 262.

[716] Richard, B. Miller, "Divine Justice, Evil, and Tradition: Comparative Reflections," in *The Ethics of War and Peace*, ed. Terry Nardin (Princeton, N.J.: Princeton University Press, 1996) 266.

[717] Miller, "Divine Justice, Evil, and Tradition," 267.

Second, for some theorists, there is an inherent tension between the realms of the human and the divine. This tension is highlighted by Niebuhr where he asserts that "the ends of holiness and righteousness lie beyond history, which is finally in God's control."[718] On this basis, he concludes, "those who adopt an ethic of total war, or holy war, arrogate to themselves a power to direct history that exceeds the limits of human knowledge and virtue;" thus for Niebuhr, it is the limits of human capacity which provide an argument against the involvement of religions in war.[719] Niebuhr's view agrees with the Shī'ī jurists like Ṣāliḥī-Najafābādī and Kadīvar who maintain that the traditional Shī'ī concept of the infallibility of Imām and even of the very person of prophet Muḥammad solely applies to the realm of the sacred and revelation.[720] Once these figures enter the public domain (including political), they are bound by the standards of the common people and therefore could be, conceptually subject to criticism for a misjudgment - based on possibly wrong information they have received in connection to a case. Matters of public domain must be decided by public vote and this vote is binding, although the result might be ethically wrong.[721] By implication, this view leaves the authority for war and peace to a legitimate political system that gains its legitimacy from people's agreement and vote. For Ṣāliḥī-Najafābādī and Kadīvar therefore, the notion of 'just war' becomes completely universal.[722] This view perfectly fits the Mu'tazilite's object ethics and Shī'ī jurists like Mohaqqeq-Damad who believe in the sanctity and prominence of contract in the body of Islamic law.

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[718] Niebuhr Paraphrased by Miller. See Miller, "Divine Justice, Evil, and Tradition," 268.

[719] Miller, "Divine Justice, Evil, and Tradition," 268.

[720] This, Kadīvar maintains, could be inferred from Q. 18:110: "Say, 'I am only a man like you, to whom has been revealed that your god is God...'" See section five of the Kadīvar interview with Homa TV on March 5, 2006: http://1384.g00ya.com/columnists/archives/045081.php

[721] Kadīvar interview with Homa TV on March 5, 2006. Ṣāliḥī-Najafābādī' view expressed in his controvertial book *Shahid Javid*, come to the same conclusions. For more details see Chapter Three.

[722] On the opposite side of Kadivar's view is Moḥammad Taqī Meṣbāḥ-Yazdī, who maintains that without Imām's approval, people's vote lacks any validity. In his words, "People are *nāṣir* (supporter), not *nāṣib* (appointer) of legitimate government." See Meṣbāḥ's interview reflected in Entekhāb's news bullitin on March, 5, 2006: http://www.entekhab.ir/display/?ID=16196&page=1

Third, Miller questions the advocacy of any religious view which allows the use of evil to combat evil. In his questioning, Miller refers to Michael Walzer's Talmudic example, wherein rabbis discuss God's immoral commands to Saul, and Bassam Tibi's Islamic example where 'necessity overrides the forbidden,' so that evil is condoned to achieve good.[723]

A fourth argument posits an ethical dichotomy between war and the two distinctive sources of evil that, according to various schools, produce it. Miller maintains that in both Judaism and Islam, the source for the evil of war is exterior, because war is essentially a fight against idolatry and polytheism.[724] For Western schools however, he contends that evil is in the Platonic spirit; it lies within human's psyche. This is illustrated by Koontz's statement that "you desire and do not have; so you kill."[725] Miller suggests that in the former case, the enemy is "more *other*, more alien…more material and tangible" than the enemy in the second paradigm. He adds that in Islam and Judaism, evil is a "contamination", "defilement", "largely positive", "more like a virus"; whereas in the Western theoretical school, evil is "a matter of virtue", "largely negative: it is a privation of good, a disordered intention", "driven by passion", "like a bodily organ that has become dysfunctional."[726] It is for these reasons that Miller appreciates the similar conclusions of Tibi and Walzer as to why the war ethics of Judaism and Islam do not conform to the categorization of the Western or Christian just war tradition, and in comparison seem more militant than the latter.

Looking at the elaborate Islamic codes of conduct in war, particularly those provided by the Sunnī jurist al-Shaybānī, Kelsay concludes that these rules tend to limit the immoral acts of war, especially in respect to the immunity of noncombatants. The notions of 'innocence in war' or 'justice,' however, are defined within specific religious and political traditions and, consequently, do not correspond to the same terms in

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[723] Miller, "Divine Justice, Evil, and Tradition," 268.

[724] Miller, "Divine Justice, Evil, and Tradition," 271.

[725] Koontz paraphrased by Miller (Miller, "Divine Justice, Evil, and Tradition," 268).

[726] All descriptions from Miller, "Divine Justice, Evil, and Tradition," 271-72.

Western just war theories.[727] According to Kelsay, "the development of discrimination in classical Sunni thought is not fully consistent with specification of the developed just war tradition, with its distinction between combatants and noncombatants. But it is not altogether inconsistent, either."[728]

Horizontal and Vertical Moral Structures

In response to the above critiques, two major arguments can be raised. First, by looking at the moral and legal structure of the secular law and the religious law of war at the macro level, it can be argued that secular law suffers a deficiency because of its vertical structure as opposed to religious law that follows a horizontal structure. In a vertical moral/legal structure, orders (positive or negative) come vertically from the top of the military ranks to the bottom leaving little space for a moral decision making in war by lower ranks. In a religious horizontal order however, if the cause of war is morally justified for all participant (as it should be in principle), all individuals, irrespective of their ranks, are directly responsible for their acts.[729] Naturally the second order limits the impact of immoral directives far more that the vertical order. This point is reflected in the following story narrated by Ibn Hisham:

> It is reported that 'Alqama Ibn al-Majazaz had been ordered to pursue the enemy after the battle of Dhui-Qird, but the Prophet recalled him with part of the troops and sent off the rest under the command of Hudhafah al-Sahmi. On the way, the latter build a fire and said to his men, "By virtue of my rank, I order you to jump into the fire." But when some of the men moved to obey his command, he laughed and said, "Stay where you are, I was only joking." When the incident was reported to the Prophet, the latter commented, "If any one orders you to do an objectionable thing, do not obey him."[730]

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[727] Kelsay, "Islam and the Distinction Between Combatants and Noncombatants," 205.

[728] Kelsay, "Islam and the Distinction Between Combatants and Noncombatants," 207.

[729] It could rightly be argued that the vertical moral structure does not necessarily need to be secular. For example the Catholic hierarchy produces a vertical moral structure.

[730] See Mohaqqiq-Damad, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 427.

A more serious case is the raid against Banī Jadhīma tribe by Khalid Ibn Walīd a Muslim commander under the Prophet. Khalid was defied buy half of his troops when he ordered (without justification) that their captives must be executed. As the story, fully discussed in the next chapter, reveals when the case was presented to the Prophet Mohammad, it was the commander (al-Walid) who was rebuked by him rather than the defying troops.[731]

The Islamic horizontal moral structure in war also reveals its strength under the topic of *amān* or granting amnesty to the enemy. Rooted in the Qur'ānic Scripture, the institution of *amān* is well defined in al-Sādiq's commentary on the topic as following:

> While the army of Islam is surrounding a group of infidels, if one of the latter requests: 'Give me *amān* so that I may visit and talk to your commander –in-chief,' and if one of the junior commanders show him positive reaction, then the contract of *amān* (amnesty) is actualized.[732]

In other words, all the legal contracts and agreements regarding amnesty that are formed between an agent or agents of the enemy and lower military ranks of the Islamic army, will immediately become binding for the higher military ranks.

Based on the above, Mohaqqīq-Dāmād concludes, "A Muslim cannot break these rules (the humanitarian codes of war) on the pretext that he was under orders from his superiors, as the rule in Islam is that a combatant is held personally responsible for compliance with the provisions of humanitarian international law, for obedience is owed to no man who orders another to commit a sin."[733]

The second argument is Toynbee's view regarding the volatile and temporary nature of the secular humanitarian laws in general. He maintains that it was not long after the victory of the secular principle of tolerance over the medieval religious bigotry in Europe, that a whole wave of destructive and divisive nationalism erupted all over

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[731] For the full story see Chapter One.

[732] Mohaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 337.

[733] Mohaqqiq-Dāmād, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws*, (2005) 426.

this continent. In Toynbee's view, wars of nationalism proved to be far more savage than wars for religion because the motive in the former case is far less spiritual. Toynbee's main point is that if tolerance as a moral norm is not rooted in faith, it can easily be overruled by other motives.[734] In other words secular norms are ephemeral and unstable by definition in contradistinction with religious norms that accompany the actors infinitely.

Conclusions

It has previously been mentioned that, given the various philosophical, juridical, theological, exegetical, mystical, and historical views present at various levels of Islamic intellectual discourses, it is misleading to talk about a monolithic theory of war ethics in the Islamic tradition; rather, one may talk about Islamic 'traditions,' of which three main trends were discussed in this chapter as three distinct theories. It is virtually impossible to place the war ethics of Ibn Miskawayh, al-Shāfiʿī, al-Shaybānī, Sayyid Quṭb, Shaltūt, Ibn al-ʿArabī, al-Ghazālī, Muṭahharī, Tibi, Sachedina, Hashmi, Ṣāliḥī-Najafābādi, Iskandarī, Moḥaqqiq-Dāmād and Kadivar in one essentialized, theoretical category called 'Islamic.'

By taking a hermeneutical view of these various traditions, Miller reminds of how what is called today the 'Western just war theory' has experienced fundamental changes in its history. His presentation of the views of St. Augustine on the causes of war, including his support for war against heretical belief, reveals how St. Augustine's view is much closer, in a theoretical context, to al-Shāfiʿī than to most of his Christian co-religionists in the twentieth century. In Miller's view, one can have very divergent historical, ahistorical, political, aphoristic and apodictic views of the same tradition with very different and divergent conclusions.[735]

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[734] Reza'i, Khosrow. trans. *Jang va Tamaddon, (Guerre Civilisation: Arnold J. Toynbee's Views on War and Civilization*, ed. Albert V. Fowler, Gallimard, 1953, (Tehran: Entesharat Elmi va Fargangi, 1993) 4.

[735] Miller, "Divine Justice, Evil, and Tradition," 273.

Kelsay, notes that "unlike the classical jurists, contemporary Muslim thinkers seem mostly interested in the *jus ad bellum*."[736] He locates the explanation in two political factors; first, modern Muslims living in the era of imperialism, colonialism, and Zionism want to have a free hand in fighting their enemies by whatever means and in whatever manner. Secondly, that Islamic apologists like Maḥmud Shaltut, the main authority of the Sunnī world who wrote a whole treaty on war in Islam in 20th century, and who failed to provide much details about *jus in bello*, were not personally engaged in war.[737] Shaltut's treaty focuses primarily on *jus ad bellum*, and denies primary wars in Islam on the Qur'ānic dictum (Q.2:256) of 'no compulsion in religion.'[738]

Chapter Three however proved that since the 1979 establishment of the Islamic Republic in Iran, and the direct involvement of the clerical leadership of this country in the eight year war with Iraq, a new generation of jurists such as Iskandarī and Mohaqqiq-Dāmād have seriously and elaborately dealth with various topics of *jus in bello*.

Variation exists not only between contemporary and classical Muslim thinkers but within identical contemporary cultural contexts. The Iran-Iraq war (1981-1989), for example, took place between two predominantly Shī'ite populations. Iraq fought a 'sovereign war,' what its leader Saddam Hussein called a 'total war,' for which there were no limits on its extent and its conduct. Saddam's government used chemical weapons against its Kurdish population. On the other hand, the Iranian leaders asserted that its war was a 'people's war.' They limited the country's air strikes to military targets on account of "their Islamic commitment and their desire to protect the innocent and their fear of destroying property belonging to the brotherly Iraqi nation."[739]

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[736] Kelsay, "Islam and the Distinction between Combatants and Noncombatants," 207. It is important to note that many modern Muslim scholars such as Mohaqqiq-Dāmād and Ṣaliḥi-Najafābādī have come with elaborate views on *jus in bello*.

[737] Maḥmūd Shaltūt's war treaty, "The Qur'ān and Fighting," was published in 1948.

[738] Kelsay, "Islam and the Distinction Between Combatants and Noncombatants," 210.

[739] Kelsay provides a full account of this unique and morally contrasting military case. See Kelsay, "Islam and the Distinction between Combatants and Noncombatants," 212-16.

Given such observations, it is therefore, very misleading to compare various traditions on a single ahistoric level. In Miller's own words, "convergences among and divergences between traditions operate at more than one level, and we would be mistaken to concentrate our attention (and hopes) on specific ethical and political issues alone."[740]

This chapter has concluded an overview of the Muslim intellectual response to war ethics in a limited and selective, yet representative and comparative way. A major challenge however is to examin and measure the distance between ideals and realities. The next two chapters will look at the ethics of war in action both at the governmental and the non-governmental levels.

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[740] Miller, "Divine Justice, Evil, and Tradition," 280.

CHAPTER SEVEN

WAR ETHICS AND PARA-STATAL MILITIA

که فتوت دادن بی علت است

Futūwa is to be generous for no ulterior motive.

Rūmī [741]

People are either your brother in faith or your brother in creation.

'Alī Ibn Abī Ṭālib

The massacre at Karbalā' in 61 AH/680 CE with the tragic demise of Ḥusayn b. 'Alī and his companions should be considered a turning point in the conception and practice of war as an Umayyad institution. Henceforth, the lust for power undermined questions of the just cause and conduct of war (*jus ad bellum* and *jus in bello*) in the Umayyad Imperial system. What we may call 'a humanitarian approach to war,' however, survived and continued to shape other Islamic institutions.

This approach was most apparent in para-statal military groups and institutions. Under various titles such as *futūwa, 'ayyārūn, asbārān,* etc.[742] These groups and institutions were active during and after the Umayyad dynasty. The ideology and norms behind these institutions loosely resemble European chivalry. In fact, the two traditions interacted during the years of the Crusades. European mercenaries became familiar with the ethics of *futūwa* which later influenced Western notions of honor, respect for enemy and respect for women.

The Islamic chivalry embodied in *futūwa,* however, went beyond regulating the conduct of war. It laid the foundations for the regulation of guilds or what is called today syndicalism. It has also played an important role in Ṣūfī institutions, though some of this lies outside the scope of this study.

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[741] In the following piece of *Mathnavī*, Rūmī refers to a few of the most important principles of *futūwa*, that is to give for no ulterior motive, and that being an all-giving is a transnational quality (*Ke futūwa dādan-e bī ellat ast, Pākbāzī khārej az har mellat ast* که فتوت دادن بی علت است پاکبازی خارج از هر ملت است); This poetry is referred to by Sayyed Ṣadeq Gowharīn, "Maktab-e Fetyān,'" in *Āyīn-e Javanmardī,* ed. Henry Corbin, trans. Eḥsān Narāqī, (Tehran: Nashr-e Now, 1984-1363 Persian calender) 219.

[742] Referred to in the Arabic texts in the plural Arabic term of *asāwira.*

Faith, the Military, and Questions of State Control

It is important to shed light on a theoretical controversy about the extent of the state's control over the military and questions raised within this realm about the general relations between Islamic faith and military service as a profession. Goitein maintains that the early Muslim state was no exception to the general rule that medieval government was primarily responsible for security and justice; welfare and other needs of life were the concern of God.[743] This assertion has prompted new lines of inquiry. Paul, for example, has questioned the extent to which military institutions were controlled by the state in a given Muslim society.[744] In doing so, he has challenged a widely held theory claiming that, by setting unattainably high ideals for public life, Islam has discouraged and even deterred civic participation from a very early date.[745] This view holds that Muslims have been reluctant to serve in government and, especially, the military out of fear of failing to abide by the proper Islamic norms of conduct. This has forced the Islamic state, for example, to rely on slave soldiery. Moreover, after its emergence in the beginning of the ninth century CE, little has changed for nearly a millennium.[746] As Cook notes, "It is remarkably hard to find in Islamic history instances of what might be called citizen armies —armies locally recruited, by a state identified with the area in question, from a settled population that was not tribal."[747]

Paul's research into the military history of Eastern Iran and Tranoxiana in the period of 820 to 1220 CE, however, concludes that the slave army, nomadic warriors,

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[743] Shlomo D. Goitein, "The Community," in *A Mediterranean Society.* Vol. 2, (Berkeley: University of California Press, 1971) 404.

[744] Jurgen Paul, "The State and the Military: The Samanid Case," in *Papers on Inner Asia* (26) (Bloomington, Indiana: Indiana University Press, 1994) 3.

[745] Daniel Pipes' wording of the theory cited in Paul, "The State and the Military," 3.

[746] Paul, "The State and the Military," 4.

[747] Michael Cook, "Comments on Garcin", in *Europe and the Rise of Capitalism*, eds. Jean Baechler, John A. Hall, and Michael Mann (Oxford, New York: B. Blackwell, 1988) 133.

and volunteer soldiers generally coexisted.[748] Paul argues that the use of military slavery reflected the need by rulers to secure the personal loyalty of their soldiers rather than a lack of urban soldiers. The rise of slave soldiery followed from the rulers' choice and actions, not those of urban settlers. The adoption of slave soldiery by al-Ma'mūn and al-Mu 'tasim in the beginning of the ninth century CE could possibly be traced to precedents in Khurāsān and Eastern Iran, given that both of these caliphs spent considerable time there.[749]

Two other pieces of evidence support Paul's argument. First, Cour identifies a parallel phenomenon in the Byzantine Empire. Byzantium imported large numbers of Turks for military service; in fact there were instances when the Turkish slave-soldiers of the Muslim and the Byzantine armies fought against each other.[750] In addition, the army of Ṣalāḥ al-Dīn Ayyūbī, according to Richards, was composed only of free-born soldiers.[751] Although medieval and classical Muslim jurists were frequently reluctant to accept official appointments as *qāḍī* the same attitude did not apply to military service. Muslim mercenaries fought for sultans and caliphs.

In describing the situation in Tranoxiana, Paul asserts that contrary to widely held conclusions, between the third and fifth centuries AH / the ninth and eleventh centuries CE, *ghāzīs*, *'ayyārs*, and *ribāṭ* fighters (small independent frontier groups) were first loyal to their communities and faith and then to their rulers. There were frequent occasions when the initiatives of these free warriors had little to do with the interests and the wills of the heads of states.[752] It was as a result of massive Turkish conversion

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[748] Paul, "The State and the Military: The Samanid Case," 8; Paul takes the Sāmānid rule (204-395 AH/819-1005 CE) as a case in point. He shows that military power at the beginning of the Samanid period was in the hands of local people led by farmers (*dihqāns*) and that this had been the case in Tranoxiana since pre-Islamic times.

[750] See *The Encyclopaedia of Islam,* new edition, s.v. "Djish, Muslim West" by A. Cour. He mentions that there were cases between the Islamic and the Byzantine Empires where the Turkish slaves of opposing sides fought each other.

[751] *The Encyclopaedia of Islam,* new edition, s.v. "Ṣalāḥ al-Dīn" by D.S. Richards.

[752] Paul ("The State and the Military: The Samanid Case," 15-19) refers to several groups: 1) large groups of *ghāzī* fighters who volunteered to confront the Byzantines; 2) fighters organized in the numerous *ribāṭs* that were active in Tranoxiana, particularly in Bukhara and Samarqand, for seasonal jihād with the infidels; 3) large groups of *'ayyārān* who were active in Sistān, Kurāsān, Bukhārā and Samarqand with little control by the state 4) local city residents called *muṭṭawi'a* who were mostly organized by the

to Islam in the middle of the fourth century AH / tenth century CE that the number of independent volunteer jihād initiatives in Tranoxiana began to diminish.[753] According to Paul's research, slave soldiery was by no means a direct consequence of Islam as a religion. Various institutions of volunteer warriors were widespread until fifth century AH / eleventh century CE.[754]

Armies of nomadic warriors and slaves were predominantly mobilized for purposes of economic gain under the authority of rulers. Volunteer armies, in contrast, were more inclined to support ideological causes for war. Since they often maintained links to the state, they may be called para-state militias. The volunteer nature of these militia forces was important since it held every single participant responsible and accountable for his actions.

The Roots of the Futūwa Institutions

The work of Paul and others show that after the Islamic conquests, a number of para-statal and paramilitary institutions emerged which operated in both civic and official capacities. Zakeri has demonstrated how the history of these institutions goes back to the pre-Islamic Sasanid Empire of Persia.[755] He notes the works of Taeschner and Cahen. These scholars have revealed that *futūwa* in its assorted forms such as *fatā* (a pre-Islamic term which incorporated Arab nobleman ideals) and *'ayyārān* (a pre-Islamic term incorporating the ideals of Persian nobility) was well-known in the centuries prior to al-Nāṣir.[756] According to Zakeri, "Taeschner concluded that one can assume what was preserved from the culture of antiquity in Babylonia and Iran was transferred to Islam under the rubric of *futūwa*." Cahen remarks that "there was not a single town in

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private sector in cities such as Nishapur; According to Cahen and Hanaway, Jr., *'ayyārān* had nothing to do with holy war though they mingled with the *ghāzīs* in the frontier regions. See *Encyclopædia Iranica*, s.v. " *'Ayyār*" by Cl. Cahen and W.L. Hanaway, Jr.

[753] Paul, "The State and the Military: The Samanid Case," 23-4.

[754] Paul, "The State and the Military: The Samanid Case," 32.

[755] Muhsen Zakeri, *Sasanid Soldiers in Early Muslim Society: The Origins of 'Ayyārān and Futūwa* (Weisbaden: Harrasspwitz Verlag, 1995).

[756] Zakeri, *Sasanid Soldier*, 3, 6.

the Iranian and pre-Iranian world from Central Asia to Mesopotamia, which did not have its *'ayyārūn*."[757] Zakeri's own thesis is that:

> The nucleus of these groups consisted of the *asbārān* who were employed by the Muslims as soldiers, bodyguards, and police in Baṣra, Kūfa, and other major cities. It was through them that the social ideals of a noble warrior class were introduced to the Muslims, and the foundation was laid for the institution of *futūwa*, in which these ideals were synthesized with Arab and Islamic ethical virtues ...by the *dihqānān* [758] who, as "intellectuals," were involved in non-military engagements such as the Shu 'ubī disputations and the scholastic theological movement of the Mū'tazilites.[759]

In other words, the pre-Islamic Iranian middle class of *dihqānān* helped form the paramilitary *asbārān,* and their war ethics.[760] In this way, the institution survived into Islamic times.

Zakeri establishes three main points. First, the Mazdak revolution[761] during the reign of Anowshīrvān marked a profound class struggle in Sasanian Iran which weakened it long before the arrival of the Muslims.[762] Secondly, because of this dissent, large numbers of free minded *asbārān* joined the Islamic forces as volunteer soldiers against the remnants of the Sasanid forces.[763]

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[757] Zakeri, *Sasanid Soldiers,* 6-7.

[758] According to Zakeri (*Sasanid Soldiers,* 45) *dihqān* is a name which covers a whole gamut of people, from simple cultivators, who were scarcely better off than their neighbors and subordinates, though higher than the ordinary peasants, to true lords of the villages.

[759] Zakeri, *Sasanid Soldiers,* 11.

[760] Zakeri (*Sasanid Soldiers,* 61) explains how *asbārān,* as a group of cavalrymen in the time of the Sāsānid king Anushīravān, were under the influence of Mazdak's socialist revolutionary teachings, thus their moral discontent with the Sāsānid establishment.

[761] Mazdak was an anti-elitist and socialist revolutionary of the Sasanid era. See *The Encyclopaedia of Islam,* new edition, s.v. "Mazdak" by M. Guidi.

[762] Zakeri, *Sasanid Soldiers,* 95.

[763] Zakeri (*Sasanid Soldier,* 115) refers to information provided by al-Balādhurī's *Futūḥ* and concludes: "These defectors indeed proved useful allies and served the Muslims at Qādisiyya, Jalūlā', and Khuzistan...the caliph 'Umar I instructed them to call in more of their kind, and they were exempted, at first from paying *jizya*...They participated in the conquest of Fārs, Kirmān, and Khurāsān," thus their easy and much welcomed settlement early on in Baṣra and Kūfa.

Zakeri also concludes that soon after the ascendance of the Umayyads to power, part of the newly-converted *asbārān* settled in Baṣra as the *asāwira* and in Kūfa as the *aḥāmira*. They later often joined forces in opposition to the caliphate. They were employed as guards and auxiliary forces by the anti-caliph 'Abd Allāh b. al-Zubayr in Mecca and fought with him in the battle of Rabadha in the year 65 AH/684 CE.[764] A second group of free converts, called *mawālī*, formed an important source of soldiers for the 'Abbāsid revolution.

These para-statal institutions of *futūwa* followed their own moral standards in battle that were partly rooted in pre-Islamic Iranian culture of *asbārān/dihqānān*, partly influenced by Islamic norms and partly also influenced by the *jāhiliya* concept of *murū'a* or *murūwa*.[765]

The Trilateral Shīʻī- Shuʻūbī - Futūwa Connection

There is a vast literature about the Shīʻī and the Shuʻūbī connection prior to and after the 'Abbāsid revolution. While there remains an on-going controversy about whether the main forces behind the revolution were dissident Persian clients or dissident Arab settlers from Khurāsān in eastern Iran, there is no disagreement about the fact that the dissidents who played a major role in the revolution came from Iran.[766] There is also no

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[764] Zakeri, *Sasanid Soldier*, 192.

[765] According to Izutsu, "The *murūwah* represents the highest idea of morality among the Bedouin, the virtue of virtues...man-ness" He adds, "...it includes various virtues as generosity, bravery and courage, patience, trustworthiness, and trustfulness." These virtues, Izutsu holds, were not abolished by Islam but were reoriented in a new moral system and were trimmed of their excesses. See Toshihiko Izutsu, *Ethico Religious Concepts in the Qur'ān*, (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press, 2002) 27, 75.

[766] According to Zakeri (*Sasanid Soldier*, 209), the Mazdakites found that the Umayyads were no less repressive than the Sāsānids. Thus, Zakeri reconfirms M. W. Watt's view about why, in Zakeri's words, "they sided with the Shī 'ites, who as legitimates, represented the political opposition and the revolutionary wing of Islam" (Ibid., 210); Also note should be taken that much of the forces supporting al-Mukhtār al-Thaqafī's revolt of 65 AH/685 CE against the Umayyads in Kūfa, in revenge for Ḥusayn b. 'Alī's tragedy, were Persian settlers called Aḥāmira, who, according to al-Mas'udī, some six to seven thousand perished once the revolt was oppressed; see Ibid., 209. See also Abdolhossein Zarinkoob, *Two Centuries of Silence* 9th ed., (Tehran: Sokhan Publishing Company, 1999) 94. Zarinkoob refers to about twenty thousand Iranians, called *Ḥamrā' Daylam*, who were among the supporters of Mukhtar in the year 64 AH.

question that 'Alī ibn Abī Ṭalib was the chief role model for the range of *futūwa* institutions which appeared in Islamic lands. The figure of 'Alī, for example, is prominent in all *futūwa* constitutions. For Corbin, the centrality of the person of 'Alī in all of the *futūwa* institutions leaves no doubt about "the fact that the very concept of *futūwa* has complete connection with Shī'ism and the Shī'ī view of the Imāmate (the spiritual leadership)".[767]

The *Shu'ūbiyya*, who appeared in second century AH/eighth century CE and peaked in third century AH/ninth century CE, consisted primarily of Iranians who despised the discriminatory policies of most caliphs. Some even suggest the movement was nationalistic.[768] The main leader and hero of the 'Abbāsid revolution, Abū Muslim Khurāsānī, was a Shu'ūbī and appears in the chain of the authority of all the *futūwa* constitutions.[769] Zakeri further suggests an intellectual link between the Shu'ūbīs and the Mu'tazilites on the one hand, and free Persian warriors called *Azādmardiyya* [770] (literally "free persons" who belonged to the *asbārān*) on the other.[771]

The above-mentioned factors suggest close inter-connections among the Shī'ī, the Shu'ūbī and *Futūwa* institutions. There were many 'Arab Shī 'ites, as well as many non- Shī'ī members of various *futūwa* institutions. There were many non-Iranian and non- Shī'ī Shu'ūbīs scattered across Islamic lands. However, these groups overlapped as institutions and in the principles they upheld. The very person of 'Alī Ibn Abī Ṭālib as the legendary founder of these institutions is important. It was 'Alī who promoted anti-

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[767] Henry Corbin, "Introduction" in *Āyin-e Javānmardī*, ed. Henry Corbin, trans. Ehsan Naraqi (Tehran: Nashr-e Ney, 1984) 8.

[768] I. Goldziher ascribed nationalistic tendencies to this movement but H.A. Gibb interpreted it otherwise. *The Encyclopaedia of Islam,* new edition, s.v. "Shu'ūbiya" by S. Enderwitz.

[769] See Mohammad Ja'far Mahjoub, *Āyin-e-Javānmardī (Fotowwat)* (New York: Bibliotheca Persica Press, 2000) 4; Abū Muslim was a legendary hero not only among Iranians in Iran but among Turks in Anatolia.

[770] As Zakeri explains, there are many other Persian synonyms for *azādmard* such as *jawānmard, 'ayyār,* and the Arabic *fatā* all referring to the similar sets of ethics.

[771] Zakeri (*Sasanid Soldier*, 332-33) maintains that the Mu'tazilite Bashshār b. Burd was ascribed through a very dubious genealogy to Sāsānid kings; he also shows (324-5) how the Qādarite Ma'bad b. 'Abd Allāh al-Juhanī (d.83 AH/702 CE) had learned his ideas against predestination from one of the *asāwira* of Baṣra, a man called Sinawah.

discriminatory attitudes toward non-Arab converts. This attracted a large numbers of them to his camp.[772] The appearance of Salmān al-Fārsī, not only as a Muslim hero but a Persian co-founder of many of these groups and societies, is also important.

The values these figures represented helped guide the ideologies and norms of these institutions. These values are embodied in the terms *jawānmard, 'ayyār, fatā, āzāda,* and the like. As Zakeri has put it, these terms reflect "the highest social and ethical values of noble warrior: altruism, prowess, loyalty, sustaining the poor, and defending the oppressed".[773]

The *futūwa* associations reached their climax in the early thirteenth century CE when the caliph al-Nāṣir li Dīn-Allāh (d. 1225 CE) reformed them, became their spiritual leader, and promoted them across the eastern lands of Islam. Al-Nāṣir used the reformed association*s* as a political base. The *futūwa* subsequently assumed the form of professional and guild organizations.

Futūwa codes of conduct, moreover, influenced Ṣalāḥ Al-Dīn al-Ayyūbī's behavior during the crusades before al-Nāṣir's reforms. One can surmise that at least some (if not a good part) of the Ayyūbid's moral codes were subsequently transferred to their successors, the Mamlūks.[774]

The moral mission of these free warriors varied between the early seventh to the mid-thirteenth century CE. At times, they served as a volunteer police force that protected cities and communities from crime and disorder. At other times, they were merely volunteer soldiers. Always, however, they observed particular codes of conduct for their activities.

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[772] Zakeri (*Sasanid Soldier*, 212) refers, in this connection, to the famous event of 'Alī Ibn. Abī Ṭālib's endeavor to establish justice for the killing of the Persian prince Hurmuzān by 'Ubayd Allāh, the son of the second caliph 'Umar. Zakeri concludes that "it was no surprise that many Persians sided with 'Alī in the war fought at Ṣiffīn, where 'Ubayd Allāh was killed." 'Alī, moreover, had the Persian Salmān al-Fārsī as an associate and was concerned in general for the rights of the *mawālī.*

[773] Zakeri, *Sasanid Soldier,* 318.

[774] Cahen and Taescner mention that in fact, the Mamlūk regime kept the courtly *futūwa* until the fifteenth century CE; they also refer to the fact the Anatolian form of *futūwa,* namely the *akhīs,* ascended to prominence shortly after it disappeared in Baghdad; for more details see *The Encyclopaedia of Islam,* new edition, s.v. "*Futūwa*" by Cl. Cahen and Fr. Taeschner.

Ethics versus Shari'a

Legends concerning 'Ali Ibn Abi Ṭalib's initiation of *futuwa* inevitably establish the core values of these associations. According to one account, the Prophet Muḥammad once heard about a Muslim man and women having an illicit encounter in a nearby hideaway. With his informant insisting on the immediate application of *shari'a* punishment, the Prophet made inquiries. The legend maintains that he dispatched 'Ali. 'Ali walked around the premises of this illicit hideaway with closed eyes and came back informing the Prophet that he had seen no one. The Prophet, realizing what 'Ali had done, praised him. He gave him the epithet of *fata* (literally, well mannered young), drank a symbolic cup of saltwater with him and thus set the rituals for subsequent *futuwa* orders.[775]

The actions of 'Ali in this story have significant paradigmatic implications for *futuwa* members. 'Ali's behavior suggests *shari'a* looks at punitive codes as deterrent rather than measures which must be strictly implemented irrespective of their real social impact. This encourages important traits like forgiveness, magnanimity and tolerating marginal or unusual transgressions. These qualities form an important part of for *futuwa* ethics.

The Esoteric-Ethical versus the Literal Interpretation

One of the core principles of *futuwa* is the primacy of forgiveness (*'afw*) over retaliation in kind (*qisas*) sanctioned by *Shari'a*. The Qu'ran allows punitive retaliation for criminal cases but also provides the option of forgiveness. [776]There is, moreover, in this passage an emphasis on the proper manner for implementing these measures.

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[775] The Prophet is reported to have praised Ali with the following: "*anta fata hadhihi al-umma*," literally "you are the (courageous, well-mannered) young man of this Community"; See Henry Corbin, ed., trans. Ehsan Naraqi, *Ayin-e Javanmardi* (Tehran: Nashr-e Ney, 1984) 21. The detailed story of the inception and the rituals of the *futuwa* order and their symbolic significance are well covered in Henry Corbin, "Introduction" in Morteza Sarraf, ed., *Rasael-e Javanmardan* (Tehran: The French Institute of Persian Studies, 1973); also see *The Encyclopaedia of Islam,* new edition, s.v. "*Futuwa*" by Cl. Cahen and Fr. Taeschner.

[776] Q.2:178: "O you who have believed, prescribed for you is legal retribution for those murdered-the free for free, the slave for the slave, and the female for the female, But whoever overlooks from his brother anything, then there should be a suitable follow-up and payment to him with good conduct. This

Corbin's reading of a *futūwa* charter written by Shihāb ad-Dīn'Umar Suhrawardī (d. 632 AH/1234 CE)[777] led him to the conclusion that Suhrawardī's held some principles of *futūwa* above *Sharīʿa*, at least its literal understanding.[778] This contradiction is resolved only in Suhrawardī esoteric exegesis of the relevant Qur'ānic verse. Suhrawardī claims that if the Prophet did not select another person other than 'Alī to inquire about the illicit affair, it was because the Prophet was cognizant of the virtues of *futūwa* which 'Alī embodied. These virtues belonged to a higher order than strict adherence to law. "Forgiveness" maintains Suhrawardī "does in fact conform to the *Sharīʿa* but with a higher esoteric level thereof."[779]

While Suhrawardī's esoteric reading of *sharīʿa* may help resolve some of the ideological contradictions, there are other principles that go unequivocally beyond the scope of the conventional Qur'ānic understandings. One such is the concept of loyalty. Authors on the subject, almost unanimously, agree that a main principle of *futūwa* is "the friend of the friend is a friend and the enemy of the enemy is an enemy".[780] A second principle is that members of the order must never commit any treacherous act against each other. These two principles stand outside -*sharīʿa*, as according to *sharīʿa*, the only acceptable loyalty is to God.

The Concept of Enemy

A well known principle of almost all *futūwa* charters is the renunciation of one's rights and claims in favor of others due to the view of oneself as inescapably lower than all

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is alleviation from your Lord and a mercy. But whoever transgresses after that will have a painful punishment."

[777] Suhrawardī or Suhrawardī in Arabic sources, is one of the most important Ṣūfīs in Sunnī Islam who brought *futūwa* and *taṣawwūf* close to each other; see *The Encyclopaedia of Islam*, new edition, s.v. "Suhrawardī" by Angelika Hartmann.

[778] Henry Corbin, "*Futūwatnāme-ye* Shihabaddīn Suhrawardī," in *Āyin-e Javānmardī*, ed. Henry Corbin, trans. Ehsan Naraqi (Tehran: Nashr-e Ney, 1984) 50.

[779] Corbin, "*Futūwatnāme-ye* Shahābuddīn Suhrawardī,"50.

[780] Parviz Natel Khanlari, "Ayīn-e 'Ayyārī" in *Āyin-e Javānmardī*, ed. Henry Corbin, trans. Ehsān Naraqī (Tehran: Nashr-e Ney, Tehran, 1984) 173-4; Khanlari argues that this principle is clearly reflected in the oath of allegiance, that any new member must take.

other creatures. It is clear within such a cosmology, establishing an antagonistic definition for 'other,' and therefore the enemy, is an extremely difficult task.

According to Melikoff, these groups, referred to by historians as *ghuzāt* (Arabic plural of *ghāzī*), *fityān* (Arabic plural of *fatā*), *'ayyārūn* (Arabic plural of *'ayyār*), etc., formed a reserve of troops always available to whoever had need of them.[781] In such capacity they are of course merely mercenaries who live on war; however other sources refer to them as servants of God who "clean the earth from the defilement of polytheism."[782] This latter capacity is highly ideological, and seems in stark opposition to the former. The difference in these characterizations has important implications for the conception of enemy by these associations and their treatment of this enemy. In their capacity as mercenaries, when they were hired by warlords and sulṭāns such as Maḥmūd Ghaznavī, [783] it is logical to expect that, as far as the ethics of war was concerned, their behavior would be a function of the orders and the supervision of the commanders whom they served. In their capacity as servants of God, when they upheld the law or fought holy wars, they would more naturally act according to Islamic norms.

In reality, these groups acted with a variety of motives and according to a variety of moral standards.[784] There are reports that show their inclination to sheer cruelty and lawlessness. Yet there are also reports that show them adhering to high principles and codes of chivalry.

Positive Traits of the Para-Militia

Although *futūwa* did not exist as an institution in the time of the Prophet, there are Qur'ānic terms which invoke its spirit. These include *fatā* in Q.12: 30, 18:60, 21:60, and

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[781] *The Encyclopaedia of Islam,* new edition, s.v., "Ghāzī" by I. Melikoff;

[782] *The Encyclopaedia of Islam,* new edition, s.v., "Ghāzī" by I. Melikoff, quoting the Turkish poet Aḥmedī.

[783] *The Encyclopaedia of Islam,* new edition, s.v., "Ghāzī" by I. Melikoff. He refers to one case in which Sulṭān Maḥmūd took about 20 thousand of *ghāzī* troops to India.

[784] *The Encyclopaedia of Islam,* new edition, s.v. "*Futūwa*" by Cl. Cahen and, Fr. Taeschner. The authors maintain "the study of these movements is made difficult by the fact that, in the course of history, they have assumed very diverse forms."

in the plural forms *fetya* and *fetyān* in 12:36, 12:62, 18:10, and 18:13. The last verse ascribes to *futūwa* a laudatory connotation. It refers to the people of Cave (*ashāb al-kahf*), These people are described as "youths who believed in their Lord, and We increased them in guidance."[785] They emerge as significant symbols in the *futūwa* *cosmology*.

The Persian *asbārān* who voluntarily joined the Islamic forces after the conquests set conditions for their defection and conversion which point to their moral outlook. Their envoy conveyed to the following the commander of the Muslim forces:

> We will convert to your religion and will fight against your Persian enemy, but only on the condition that should there be any internal strife and war within your own camp (the Arab/Muslim), we would be spared from taking sides, and that should there be any war waged against us by the Arabs, you must come to defend us, and we should have a free choice of joining any Arab tribe as we wish.[786]

The same source reports that the Muslim commander was initially unwilling to agree to their terms. He accepted them only upon receiving an order from the second caliph 'Umar. They later participated in the siege of the Persian city Shushtar but did not show much zeal in battle.[787] What is important here is that the *asbārān* sought to avoid, early on, from taking part in any inter-tribal or inter-sectarian clashes.

Two important works shedding light on the ethics of these associations are the *Shāhnāmeh* of Ferdowsī (d.1020 CE) and the *Qābūs Nāma* (a mirror for princes written by 'Unsor al-Ma 'āli Kaykāvūs b. Eskandar in 475 AH/1082 CE). Both texts depict the *'ayyārs* in a positive light.[788] Hanaway, Jr. notes that, from the time of the earliest

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[785] *Ashāb Kahf*, who are referred to as the "Seven Sleepers of Ephesus" in Christian Occident literature, were a group of young people who resisted the idolatrous ideology of the Emperor Decius (240-51 BCE) and his persecution, sought refuge into a cave, sank into miraculous sleep for about three hundred and nine years, and then awoke under the Christian Emperor Theodosius. They became symbols of youthful resistance to injustice in the constitutions of many *futūwa* institutions; see Henry Corbin, "Introduction" in Murteza Sarraf, ed., *Rasāel-e Javanmardān*, (Tehran: The French Institute of Persian Studies, 1973). For more, see also *The Encyclopaedia of Islam*, new edition, s.v. "Ashāb al-Kahf" by R. Paret.

[786] Ahmad Ibn al-Balādhurī, *Futuh al-Buldān*, trans. Azartash Azarnoosh (Tehran: Soroush, 1985) 128.

[787] al-Balādhurī, *Futuh al-Buldān*, 128.

[788] R. Levy, ed. *A Mirror of Princes: Qābūs Nāma* (London, n.p.. 1951).

appearances of *'ayyārī* in Persian texts, the word is linked with *javānmardī*.[789] In the *Qābūs-Nāma, javānmardī* is associated with wealth, generosity, magnanimity and courage.[790] An entire chapter is dedicated to *javānmardī*, detailing the various categories and classes under this rubric. The three cardinal principles of *javānmardī* are: fulfilling one's promises, refraining from untruthfulness, and having fortitude in all affairs.[791] In this section, the author emphasizes the importance of the good treatment of prisoners of war and avoiding revenge.[792]

An important *'ayyārī* figure for ethical standards is Ya'qūb b. Layth Ṣaffār (d.265 AH/879 CE) the coppersmith who founded the Ṣaffārid dynasty in Eastern Iran.[793] According to Sīstān's history (the *Tarīkh-e Sīstān*, written by an anonymous author in ca. mid-fifth century AH) Ya'qūb owed his power to his *'ayyārī* attitude. This is perhaps tied to his origin as a coppersmith. The text relates, "… the reason for his ascendancy was that he always shared his provisions, in a manly manner, with others, hence his natural leadership among peers in any profession he might practice."[794]

Ya'qūb has the reputation, among many scholars of medieval history, as the first ruler to challenge the very conception of the caliphate as an institution.[795] According to the *Tarīkh-e Sīstān*, Ya'qūb openly criticized the Abbasid caliphate. He asserted, "the very foundation of the Abbasid caliphate has been based on deceit and treachery (*ghadr* and *makr*). Don't you see how they (the Abbasids) treated Abū Muslim, Abū Salama,

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[789] *Encyclopædia Iranica*, s.v. "'*Ayyār*'" by Cl. Cahen, and W.L. Hanaway, Jr.

[790] *Encyclopædia Iranica*, s.v. "'*Ayyār*'" by Cl. Cahen, and W.L. Hanaway, Jr.

[791] Ibn Eskandar, *Qābūs Nāma (A Mirror For Princes)*, 247.

[792] Ibn Eskandar, *Qābūs Nāma (A Mirror For Princes)*, 247, 260.

[793] C. E. Bosworth maintains that Ya'qūb, by establishing the first independent provincial dynasty (861-1003 CE), repudiated the caliphal claims to supreme authority and breached the fabric of Abbasid rule. He also had a reputation to fight with the Kharijite insurgence in Sīstān; see *The Encyclopaedia of Islam*, new edition, s.v. "Wa'qūb b. al-Layth al-Ṣaffār" by C. E. Bosworth.

[794] Jafar M. Sadeqi, ed. *Tārikh-e Sīstān* (Tehran: Nashr-e Markaz, 1994) 142; see also C. E. Bosworth, *Sīstān under the Arabs: From the Islamic Conquest to the Rise of the Saffārids (30-250/651-864)*. (Rome: ISMEO: 1968).

[795] Sayyed Ṣadeq Gowharīn, "The Social Roots of *Fityān* and *'Ayyārān*," in *Āyīn-e Javānmardī*, ed. Henry Corbin, trans. Eḥsān Narāqi (Tehran: Nashr-e Now, 1984 CE/1363) 131.

the Barmakids, and Faḍl ibn Sahl despite all their services to that regime, lest any body trust them."[796] These prominent personages had once served the regime but were later disgraced and executed.

The *Tarīkh-e Sīstān*, at the same time, reports that Ya'qūb observed a high standard of ethics in battle. For example, he refrained from initiating any battle against the infidels before exhausting all peaceful alternatives. He refrained from confiscating the property and the children of any convert, and returned the confiscated properties to defeated foes who converted later. He not only ceased to impose the poll tax (*kharāj*) on subjects who had incomes below five hundred *dirhams*, but gave them alms (*sadaqa*).[797] Ya'qūb was relatively mild in his treatment of captives and released many mercifully. He also had a reputation of protecting the weak and acting fairly. He is quoted as having said, "Fat is not found in a sparrow's belly, look for it in a cow's stomach."[798]

Ya'qūb's image in the *Tarīkh-e Sīstān* fits the classical model of an *'Ayyār*. While he adheres to certain universal virtues and principles such as courage, generosity, fairness, truthfulness, support for the weak, and maintaining some independence from official central authority, he refrained from religious bigotry and, in fact, entertained a number of different religious denominations in his court.

Many *'ayyār*s such as Ya'qūb began their careers as leaders of bands of brigands but acquired a popular 'robin hood' image through selfless actions. Ya'qūb for example, never left his victims entirely helpless. He never molested women, and lived simply. In one proverbial anecdote, he entered a house with his gang with the intent of robbing it. In the darkness, he picked a glittering object guessing that it was a precious gem. To his dismay, however, when he touched it to his tongue, he found it was only a piece of salt crystal. He immediately dropped it and ordered his gang to leave the house at once. He said, "it is utterly immoral to rob whomever has fed you."

Another legendary *'ayyār*, Samak-e-'Ayyār, maintains a similar set of principles. In one legendary account, Marzbān Shāh sends him gifts hoping to win his support in a

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[796] Sadeqi, ed. *Tarīkh-e Sīstān*, 142.

[797] Sadeqi, ed. *Tarīkh-e Sīstān*, 142.

[798] Sadeqi, ed. *Tarīkh-e Sīstān*, 143.

249

war against the Chinese. Samak refrains from accepting the gift. He points out to the Shah's representative that he fights only for just causes and not for bread.[799]

Samak is committed by his principles to bring justice to unjust situations.[800] He repeatedly pledges to his comrades that he is a friend of their friends and an enemy of their enemies, and will not to commit any act of treachery to a friend.[801] *'Ayyārī* legends sometimes identify women as heroines in battle. Samak's wife, Sorkhvard, is among them.[802]

In battle, Samak fights in the name of God and only after receiving permission from the king and chief commander. Before fighting, he recounts his heroic exploits and declares his reasons for entering the battle. Afterwards, he carefully respects the rights of his prisoners.[803]

Although the *'ayyārs* were notorious as outlaws, careful examination of the record shows that they fought against domestic despotism. According to al-Ṭabarī, *'ayyārs* joined the riots of 249 AH/863 CE in Baghdad and Sāmarrā against Turks who had killed the caliph. "The populace of Baghdad," al-Ṭabarī reports, "gathered, shouted out in protest and called for action. Joining them were the Abnā' and the Shākiriyyah,[804] who openly called for their allotment."[805]

Negative Traits

The *'ayyār* also had a number of negative qualities. Cahen maintains that "our only information about social aspects of the *futūwa* movement in early Islamic times comes

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[799] Khanlari, *Shahr-e Samak*, 64.

[800] Khanlari, *Shahr-e Samak*, 73.

[801] Khanlari, *Shahr-e Samak*, 76; cf *Encyclopædia Iranica*, s.v. " '*Ayyārī* by W. L. Hanaway Jr.

[802] Khanlari, *Shahr-e Samak*, 34.

[803] Khanlari, *Shahr-e Samak*, 98.

[804] Note should be taken that Abnā' and Shākerīyya are other names for para-statal militia that are called 'Ayyārs in eastern Iran. They are all of the same socio-military background.

[805] George Saliba, trans. *The History of Al-Ṭabarī*, Vol. XXXV, "The Crisis of the 'Abbāsid Caliphate" (New York: State University of New York Press, 1985) 10.

in works by authors connected with aristocratic circles, who take no interest in it except in cases of its involvement in disorders, when they describe it as a bandit organization; they never credit it with ideological motives."[806] As testimony to this negative image, Hanaway writes that it is the *fityān* who "generally appear as trouble-makers, ready in times of breakdown of authority to harass rich merchants and other worthies by pillaging or threatening to pillage the shops or premises of any who would not pay them fixed sums of protection-money."[807] Other historical *ʿayyār* figures such as Yaʿqūb b. Layth Ṣaffār and ahistorical figures such as Shāhūy in the Persian epic literature of Ferdowsī and other poets are often cast in a similar light.[808] While they could sometimes act as policemen, as they did in Baghdad during the years 1028-33 CE, [809] they indulged at other times in terrorizing the population as they did in Baghdad in the years 1135-44 CE.

Cahen and Taeschner maintain that "the three centuries from 4 AH/10 CE to 6 AH/12 CE are full of tales of disturbances fomented by tremor in which they took part, their exploits only ceasing at exceptional times under strong rulers (the Būyid ʿAḍud al-Dawla, the three great Saljūqs).[810] These and many other examples from medieval literature confirm such negative characterizations and traits, identifying *futūwa* with rowdies, brigands, and the plebeian part of the society that in times of weak central authority often harassed local populations.[811]

Kramer argues that the general openness that came with the Būyids and helped launch a renaissance of sorts, provided the *ʿayyārūn* with the opportunity to seize and abuse power. According to Kramer, "In the civil disturbances under the Būyids, the

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[806] *Encyclopædia Iranica,* s.v. " *ʿAyyār*" by Cl. Cahen and W. L. Hanaway, Jr.

[807] *Encyclopædia Iranica,* s.v. " *ʿAyyār*" by Cl. Cahen and W. L. Hanaway, Jr.

[808] *Encyclopædia Iranica,* s.v. " *ʿAyyār*" by Cl. Cahen and W. L. Hanaway, Jr.

[809] *The Encyclopaedia of Islam,* new edition, s.v. "*Futūwa*" by Cl. Cahen and Fr. Taeschner.

[810] *The Encyclopaedia of Islam,* new edition, s.v. "*Futūwa*" by Cl. Cahen and Fr. Taeschner.

[811] *Encyclopædia Iranica,* s.v. " *ʿAyyār*" by Cl. Cahen and W.L. Hanaway, Jr.

'ayyārūn are often mentioned as active participants."[812] It is therefore not without foundation to say that these associations helped bring the Būyids' downfall, though according to Cahen one of the Būyids, Abū Kālijār, had ties with them.[813]

The Moral Common Ground

The concern of most 'ayyārs, with social justice, helps explain their popular support. Social justice was important in the third century of Islam when they rose to prominence. Rekaya has tied the Caliph al-Ma'mūn's *mihna* (inquisition) of 218 AH/833 CE, where he tried to establish Mu'tazili theology throughout the caliphate, with his desire to reform the tax system in the countryside. Peasants had supported him in his rebellion against his brother al-Amin. For much the same reasons, circles close to al-Ma'mūn declared that 'Alī b. Abī Ṭālib, who already had a well established reputation for social justice, was the 'Prophet's best companion.'[814]

Concern for social justice was also something in common between Shīʿī and the Mu'tazilī schools of thought early on in their formation. It was this concern for social justice which justified the interventionism of these groups, much like the *'ayyārī / futūwa* associations. At times, this was tantamount to denying the legitimacy of the head of state or, as Hodgson points, the privileges of their administrations, the noble kātib clerks.[815] At times, this was tantamount to denying the legitimacy of the head of state or, as Hodgson points, the privileges of their administrations, the noble kātib clerks. The criticism of these groups did not come so much from their support of social justice but from the spontaneous and arbitrary manner in which they pursued their goals. This explains why thinkers like al-Ghazālī preferred an unjust ruler and order over the chaos and disorder of competing claims to social justice.

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[812] Joel L. Kramer, *Humanism in the Renaissance of Islam: The Cultural Revival During the Būyid Age* (Leiden: E. J. Brill, 1986) 51.

[813] *The Encyclopaedia of Islam,* new edition, s.v. "Futūwa" by Cl. Cahen.

[814] *The Encyclopaedia of Islam,* new edition, s.v. "Al-Ma'mūn" by M. Rekaya.

[815] Maeshall G. S. Hodgson, *The Venture of Islam,* Volume 2, 128.

Futūwa: Reappearance, Reform, and Reorientation

Hartmann maintains that by 1207 CE, there were *futūwa* associations that had little constructive purpose in the decades before the 'Abbāsid caliph al-Nāṣir li-Dīn Allāh assumed power (575-622 AH/1180-1225 CE).[816] Al-Nāṣir's political insight, however, prompted him to reconsider the organization of *futūwa* and to turn it into an instrument of power and social solidarity. He achieved this through a program of reform which placed al-Nāṣir at the spiritual leader of the *futūwa* associations. As Hartmann asserts, this was more effective than a strong army at his service.[817] This was because the *futūwa* associations subsequently became "a framework for solidarity of all Muslims of all confessions and social ranks up to the princes."[818]

His reforms instituted five cardinal principles in the associations: First, 'Alī b. Abī Ṭālib was the model for all legal decisions. Second, after 'Alī, al-Nāṣir held the highest spiritual rank. Third, the main goal of the associations was to fulfill the duty of the holy imāma. Fourth, unworthy conduct toward an associate would lead to dismissal from the association. Fifth, Prophetic ḥadīth guaranteed the right of the Caliph in this declaration.[819] As was the case with al-Nāṣir's predecessor al-Ma'mūn almost two centuries before, the prominence of 'Alī stressed the commitment to social justice. The appeal of the caliph to the authority of the imāmate spared him the need to garner a consensus of jurists for his actions, as is required in Sunnī *Sharī'a*. The reforms proved successful in general. al-Nāṣir, however, continued to face difficulty in reconciling his position of legal authority with the institution of caliphate (*Khilāfa*) on the one hand and the *futūwa* associations on the other. He sought to combine legal, moral and political powers in his position. It was perhaps for this reason that he formulated a synthesis of Shī'īsm (representing political power), Sunnīsm (representing legal power),

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[816] *The Encyclopaedia of Islam,* new edition, s.v. "al-Nāṣir Li-Dīn Allāh" by Angelika Hartmann.

[817] *The Encyclopaedia of Islam,* new edition, s.v. "al-Nāṣir Li-Dīn Allāh" by Angelika Hartmann; 'Abdul Ḥusayn Zarinkoob maintains that al-Nāṣir used the *futūwa* association much like a political party in the modern sense. Look at 'Abdul Ḥusayn Zarrinkoob, "Ahl-e Malāmat wa Fityān," in *Ayin-e Javānmardī,* ed. Henry Corbin, trans. Ehsan Naraqi (Tehran: Nashr-e Ney, Tehran, 1984) 201.

[818] *The Encyclopaedia of Islam,* new edition, s.v. "al-Nāṣir Li-Dīn Allāh" by Angelika Hartmann.

[819] *The Encyclopaedia of Islam,* new edition, s.v. "al-Nāṣir Li-Dīn Allāh" by Angelika Hartmann.

and Ṣūfism (representing moral power).[820] In the end, however, as was the case under the Umayyads, lust for power trumped all.[821]

The success of al- Nāṣir's reforms helped reestablish the fortunes of the 'Abbasid caliphate. The status of the *futūwa* associations was important and attractive enough to prompt Key Kaus, the Saljūq Sulṭān of Anatolia, (d. 615 AH) and al-Kāmil the Ayyūbid Sulṭān to apply for membership, thereby accepting the caliph's spiritual leadership.

The Chivalry-Crusades-Futūwa Connection

The rise and development of *futūwa* associations in the thirteenth century CE bears many parallels to the rise of concepts of just war in Europe. The first chapter established two important conclusions about European concepts of just war: First, the standard works on the laws of just war appeared in mid-twelfth century--that is only fifty years after the inception of the Crusades (1095 CE), and second, the essential part of *jus in bello* laws (codes and regulations pertaining to the conduct of war) were developed not by the Church but by chivalric institutions. At the same time, although the roots of the *futūwa* associations go back to the Sasanian era, the *futūwa* reached its apogee in the early thirteenth century CE, after the reforms of al-Nāṣir. The Crusades, which embodied European ideals of chivalry, consequently, may be linked to the revival of *futūwa* by al-Nāṣir.

Hammer-Purgestall in the early nineteenth century, seems to have been the first to consider *futūwa* as "Islamic chivalry," which in his view preceded the European knighthood.[822] Whether the two sets of institutions share a common root has been a matter of controversy. However, there is a consensus on two points: first, the fact that *futūwa* and related organizations such as *'ayyārī* preceded the European chivalry and,

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[820] *The Encyclopaedia of Islam,* new edition, s.v. "al-Nāṣir Li-Dīn Allāh" by Angelika Hartmann.

[821] See some details on al-Nāṣir's ethics of war in Chapter Six

[822] Zakeri, *Sasanid Soldier* 2; cf. *The Encyclopaedia of Islam,* new edition, s.v. "*Futūwa*"by Cl. Cahen and Fr. Taeschner.

second, the striking institutional similarities (especially when the post-Mongol form of *futūwa* intermingled with Ṣūfism and turned into guild institutions).

Some scholars, however, have cast serious doubts about a common origin. Frye, for example, argues that what gave birth to European chivalry were feudal societies which were non-existent in the pre-Islamic Iran.[823] Yet many scholars do not hesitate to speak of feudalism in the Near East.[824] Christensen argues that the Sasanid horsemen held the status of "chevalier" as in European Chivalry.[825]

Almost all important Iranian authorities on the subject maintain that the pre-Islamic Sasanid prototype of *futūwa* inspired and influenced European chivalry. Mahjoub, for example, has cited evidence of a German Lord who sent an emissary to al-Nāṣir in the early thirteenth century CE requesting membership in his (al-Nāṣir's) *futūwa*. He asserts that "there is a very high probability that the European *chevalerie* order was copied from Islamic countries."[826] Similarities in rituals and symbols suggest this relationship. The wearing of trousers (*sarāwīl*), symbolizing the virtue of chastity in both Eastern and Western organizations, goes back to an ancient Iranian ritual, as Arabs do not normally wear trousers.[827]

Corbin cites d'Ors, who traces Zoroastrian ethics through a long evolution to the chivalric codes of the thirteenth century CE. Corbin's main thesis is that philosophers like Shihāb al-Dīn Suhrawardī (d. 587 AH/1191 CE) transformed Zoroastrian heroic epics into the Islamic mystical epics. The idea of the Shī'ite's occulted Imām returning to earth to establish universal justice is very close to the notion of *Sushiant* in Zoroastrianism. Corbin thus agrees with d'Ors in suggesting that it was Shī'ism which facilitated the borrowing of ancient Persian ethos by the West. Narāqi, who translated

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[823] Zakeri, *Sasanid Soldier*, 14; Frye argues that feudalism is a political entity rather than an economic one, based on the mutual obligation between the lord and his serf, something that did not exist in the pre-Islamic Near East.

[824] Zakeri, *Sasanid Soldier*, 13.

[825] A. Christensen, quoted in Zakeri, *Sasanid Soldier*, 59.

[826] Mahjoub, *Āyin-e-Javānmardī (Fotowwat)*, 66.

[827] Esmāil Hākemī, "*Āyin-e Futūwa t wa 'Ayyārī*"in *Āyin-e Javānmardī*, ed. Henry Corbin, trans. Ehsan Naraqi (Tehran: Nashr-e Ney, 1984) 167.

and annotated Corbin's introduction to a book on guild/*futūwa* constitutions (*futūwatnāma*), also agrees with these.[828]

There are a number of common values and principles between Islamic *futūwa* and European chivalric associations. These include an emphasis on truthfulness, fidelity, defense of the weak, generosity; and finally fighting against injustice.[829]

There are, at the same time, some major differences. Four out of the ten main ordinances for chivalric orders tie to the concept of fidelity to the Church and commitment to battling 'infidels.' Three provisions require scrupulous observance of the Law of God, feudal duties and love for the country of one's origin. In contrast, *'ayyārī* /*futūwa* associations have little loyalty for the state or religious establishment. Islamic associations, in fact, have strong tendencies toward transnational solidarity since ethical norms emphasizing the autonomy of the individual and judgment based on reason have greater influence than the *Sharī'a* law

The cosmopolitan tendencies toward transnationalism and interfaith are closer to the humanitarian spirit of the Western just war theories than the faith-driven chivalry commandments. Was it then possible that the Crusades, which brought the European knights into contact with Muslim forces and their codes of war ethics, were the medium that facilitated the assimilation of some of the Islamic *futūwa* war ethics into the principles of the European just war theories?

According to Hay, although the theoretical literature of the humanitarian concerns in war appeared in the works of the clerical authors and legislators from at least the late tenth century on, their moral influence on the knights appeared no sooner than thirteenth century.[830] Gratian's *Decretum* in the mid-twelfth century CE, which established the Christian canon law and some of the principles of just war in the West

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[828] Henry Corbin "Introduction" in *Āyin-e Javānmardī*, ed. Henry Corbin, trans. Ehsan Naraqi (Tehran: Nashr-e Ney, 1984) 8.

[829] Compare the main commandments as stipulated in the *Qābūs Nāma* and in Gautier, *Chivalry*.

[830] David J. Hay "Collateral Damage, Civilian Casualties in the Early Ideologies of Chivalry and Crudade" in Niall Christie and Maya Yazigi, eds. *Noble Ideals and Bloody Realities, Warfare in the Middle Ages*, (Leiden and Boston: Brill, 2006) 9, 10.

by referring to Peace of God, appeared at least half a century after the beginning of the first Crusade in 1095 CE. More eloquent principles distinguishing between Christian soldiers from Christian civilians were reflected in the works of St. Bernard of Clairvaux (1090-1153).[831] This raises the possibility of some Eastern influence. The Crusades began long before this date in theory and practice, not only against Muslims or pagans but rebel Christians.[832] Although crusades appeared as 'Holy' wars in the European historiographies of later eras, the motives behind them were often a combination of various aspirations. Before the First Crusade, a number of like-minded campaigns were launched in Spain, the Baltic, and North Africa. Riley-Smith suggests a variety of motives for these enterprises including a desire for land, spoil or profit, colonial experiments, simple-mindedness, and of course religious duty.[833] France asserts that, For the papacy a degree of control of the European expansionism was essential to preserve its own position and to prevent an unthinkable outbreak of religious pluralism." He adds, "It was the papacy that was anxious to sanctify war, most notably in Spain and more dubiously in England in 1066, as an instrument of control."[834] France believes that the anti-Muslim incentives of both the Spanish wars of *reconquesta* and crusades were an invention of later historiographies.[835] Cahen maintains that although the main

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[831] David J. Hay "Collateral Damage, Civilian Casualties in the Early Ideologies of Chivalry and Crudade" in Niall Christie and Maya Yazigi, eds. *Noble Ideals and Bloody Realities, Warfare in the Middle Ages*, (Leiden and Boston: Brill, 2006) 13.

[832] Norman Housley, "Crusades Against Christians: Their Origins and Early Development, c1000-1216," in *Crusading and Warfare in Medieval and Renaissance Europe*, ed. Norman Housely (Aldershot: Ashgate Publishing Limited, 2001); Housely (p.23) identifies the period between 1148 and 1153 CE when "the most detailed justification for directing Christian arms against other Christians instead of pagans" were formulated. He discusses how Pope Innocent III, in 1199 CE, proposed crusades against the German adventurer Markward of Anweiler, and in 1208, again against Cathars and their protectors.

[833] Jonathan Riley-Smith, *History, Crusades, The Latin East, 1095-1204* (Cambridge: Cambridge University Press, 1997) 56.

[834] John France "Thinking about Crusader Strategy" in Niall Christie and Maya Yazigi, eds. *Noble Ideals and Bloody Realities, Warfare in the Middle Ages*, (Leiden and Boston: Brill, 2006) 80.

[835] John France "Thinking about Crusader Strategy" in Niall Christie and Maya Yazigi, eds. *Noble Ideals and Bloody Realities, Warfare in the Middle Ages*, (Leiden and Boston: Brill, 2006) 84-87.

justification of the later Crusaders was to assist the Christians in the Holy Land, the result was "completely opposite to their avowed object."[836] Cahen states that,

> From a cultural point of view, objective comparison leads to the categorical conclusion that where the West has acquired knowledge of Muslim civilization, it has done so mainly through Spain and Sicily and not through Western settlements in the East or Crusaders from the West; moreover, Islam as such nearly always remained misunderstood and the few accurate ideas about it that the West finally acquired are due to the efforts of missionaries, in other words work undertaken in an entirely different spirit from the spirit of the Crusades.[837]

An important side effect of the Frankish attacks against Egypt and the Holy land, according to Cahen, was that it intensified the anti-Shī'a campaigns which therefore resulted in the domination of an orthodox Sunnism in the entire area.[838]

The Crusades, at the same time, did not provoke a counter-crusade by the Muslims, even by the Turks of the Asia Minor whose invasion of Byzantine lands instigated the Crusades.[839] In fact, the religious intolerance shown by the Crusaders against Muslims, Jews and even Eastern Christians undermined the tradition of tolerance and cooperation that previously existed between Christians and Muslims in the Muslim world. The rivalry between the Byzantine and the Islamic caliphate was not always hostile, rather many scholars and pilgrims frequently traveled between them. After the Crusades, the unfortunate Christian minority under the Egyptian Mamluk regime fell victim to the legacy of the savagery of the Christian Crusaders.[840]

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[836] *The Encyclopaedia of Islam,* new edition, s.v. "Crusades" by Cl. Cahen; Cahen believes that the deterioration of the situations of the Christian Maronites, and Armenians under the Mamlūks resulted directly from these confrontations.

[837] *The Encyclopaedia of Islam,* new edition, s.v. "Crusades" by Cl. Cahen.

[838] *The Encyclopaedia of Islam,* new edition, s.v. "Crusades" by Cl. Cahen; in other words, the Crusades were responsible for the radicalization of the Muslim culture across a large area with lasting effects.

[839] D. S. Richards draws attention to an exception to the general attitude that Cahen suggests; he contends that Sinjārs and Zangīs who frequently helped Ṣalāḥ al-Dīn, did not have any other motive in their support of the political rival except on account of a common Islamic cause. See *The Encyclopaedia of Islam,* new edition, s.v. "Ṣalāḥ al-Dīn" by D.S. Richards.

[840] Steven Runciman, *The History of Crusades* (in Persian), several vols., trans. Manouchehr Kashef (Tehran: Bongah-e Tarjomeh va Nashr-e Ketab, 1980) vol.3, 560.

The Christian Byzantine Empire also fell victim to the oppressive policies of Western Christians leading to the occupation of Byzantium in the fourth Crusade.

Ṣalāḥ al-Dīn's War Ethics: A Moral Legacy

Among legendary figures in the medieval Muslim world, there is hardly anyone whose ethical and humanitarian attitude in war has received as much admiration by both Western and the Muslim authors as Ṣalāḥ al-Dīn Ayyūbī (d.1193 CE). Bahā' al-Dīn Ibn Shaddād (d.1234 CE),[841] one of the closest jurist associates of Ṣalāḥ al-Dīn, describes him as "a paragon of chivalry, generous, extremely modest and had a welcoming face for any guests that arrived...even if he were an infidel."[842] Cornish,[843] an early twentieth-century historian of European chivalry, writes that "Christian chivalry has only one hero who may be set above the courteous, the humane, the generous Saladin, in comparison with whom Godfrey and Tancred seem uncultured. This is Lewis IX of France..."[844] Cornish goes on to note that Saladin was the only Oriental prince who practiced something like toleration, and looked upon both Christians and Muslims as his subjects and therefore worthy of his protection.[845]

Ṣalāḥ al-Dīn is reported to have shown compassion to his prisoners. "When he took Acre," Ibn Shaddād reports, "he released all the prisoners...about four thousand of

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[841] He wrote an authentic chronicle of inside information about Ṣalāḥ al-Dīn's war campaigns and day to day activities. His book is translated into English by D. S. Richards. See D. S. Richards, *The Rare and Excellent History of Saladin* (Aldershot: Ashgate Publishing Limited, 2001).

[842] Richards, *The Rare and Excellent History of Saladin*, 35; Here, the author narrates how Ṣalāḥ al-Dīn generously gave the lord of Antioch (a Christian) a territory which he had lost before the final peace treaty of 1192.

[843] The main Western sources used in this chapter for the history of chivalry and the Crusades are Christie, Yazigi, Cornish, Batty, Riley-Smith, Gautier, Housley, and Cahen. These sources are by no means exhaustive. For a historiography of the Crusades, see: Giles Constable, "The Historiography of the Crusades," in *The Crusades from the Perspective of Byzantium and the Muslim World*, eds. Angeliki E. Laiou and Roy P. Mottahedeh (Washington, DC.: Dumbarton Oaks, 2001); Constable discusses the difficulty or 'impossibility' in distinguishing between primary sources and secondary accounts in this field.

[844]F. Warre Cornish, *Chivalry* (New York: The Macmillan, 1908) 142.

[845] Cornish, *Chivalry*, 14.

them; gave each expenses to allow them reaching their home town..."[846] Cornish asserts that "ordinary prisoners of war he treated mercifully. . . his usual practice was to spare the common people of a Frankish town."[847] Ibn Shaddād also mentions that "no orphan was ever brought before him without ...(Saladin) giving him the fief of the departed...or if the orphan did not have any elder, he would maintain for the orphan what was sufficient from the fief to meet his needs and hand him over to someone who would take care of his upbringing..."[848]

In other narratives, Ibn Shaddād shows how Ṣalāḥ al-Dīn meticulously observed Arab chivalric traditions.[849] He was known as very pious; for example, on many occasions, he wept during prayer and took great joy listening to ḥadīth.[850] Ṣalāḥ al-Dīn is presented as trustworthy, truthful, faithful to his pledges even to the enemy, and on many occasions keen to settle disputes by negotiation.[851] His attitude toward Jews and Christians was far better than the way his enemies treated Muslims under their rule.[852] As a result, Ṣalāḥ al-Dīn became a mythic figure of chivalry in medieval European literature.[853] "He is admitted by Dante," Cornish observes, "to the milder region of Limbo, among the company of ancient worthies: the philosophers Avicenna and

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[846] Richards, *The Rare and Excellent History of Saladin*, 38.

[847] Cornish, *Chivalry*, 138.

[848] Richards, *The Rare and Excellent History of Saladin*, 38.

[849] When he captured Prince Guy and his brother the notorious Prince Reynald in the 1187 CE battle of Ḥaṭṭin, Ṣalāḥ al-Dīn offered the former a drink, which he passed to Prince Reynald. Ṣalāḥ al-Dīn then instructed his interpreter, "tell the King, you are the one giving him a drink. I have not given him any drink." According to the customs of the Arabs, whoever gave a prisoner food or drink extended to him a promise to spare his life. Ṣalāḥ al-Dīn's intention was to strictly observe these customs. He disavowed any generosity toward Reynald because he wished to execute him for numerous treacherous attacks against the Muslims. See Richards, *The Rare and Excellent History of Saladin*, 75.

[850] Richards, *The Rare and Excellent History of Saladin*, 211; also Cornish, *Chivalry*, 139.

[851] Finally, as Cahen mentions, he succeeded in establishing a policy of détente with the Franks. See *The Encyclopaedia of Islam,* new edition, s.v. "Ayyūbids" by Cl. Cahen.

[852] This fact is well attested not only by Muslim authors who might be biased, but by many Western accounts of the Crusade's history.

[853] *The Encyclopaedia of Islam,* new edition, s.v. "Ṣalāḥ al-Dīn" by D.S. Richards.

Averroes are there too; but Saladin sits alone and apart."[854] All of these qualities belong to the moral paradigm of the *'ayyārī/futūwa*.

Saladin, nevertheless, had shortcomings. Indeed, the economic situation of Egypt and Syria deteriorated under his rule due to his sixteen years of continuous campaigns (1177- 1193 CE) .[855] This, of course, was just as much a consequence of the Crusaders' desire for war. For the Christian Crusaders, like early Muslim society, warfare had elements of faith (i.e. to remake the world in God's plan) and secularity (i.e. lust for conquest) that went to extremes and led to carnage and exhaustion.[856]

Most historical accounts reflect these realities. Not only did the early Crusaders attack Muslims and Jews but some indigenous Christian communities were also subject to pillaging and massacres. Cruelty was accepted toward those considered 'infidels'; according to Cornish, "to torture prisoners, to murder women and children wholesale, to blind, starve, maim and mutilate private enemies or prisoners of war, was as lawful as to slay men in open warfare."[857] Similar behavior in Spanish wars shows that such patterns of cruelty were a widespread norm of the era.[858] The systematic cruelty, nevertheless, contravened the principle of clemency which both the Church and the knighthood orders professed.

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[854] Cornish, *Chivalry*, 136-7; Dante's words were, "Solo in parte vidi il Saladino".

[855] This matter is stressed both by Ibn Shaddād and Richards.

[856] Goodman, *Islamic Humanism*, 49; Cf. Khadduri, *War and Peace in Islam*, 60, 141-42.

[857] Cornish, *Chivalry*, 111-18; The Jewish view of the Crusades gives further affirmation to the fact that Muslims were not the only object of the 'Holy War.' Giles Constable rephrases Joseph Ben Joshua Ben Meir, a Jewish chronicler of the early fifteenth century CE, who wanted 'the children of Israel to know what they (the Christians) have done unto us' and saw the Muslims as the instruments of divine vengeance on the Christians. Giles Constable, "The Historiography of the Crusades," in *The Crusades from the Perspective of Byzantium and the Muslim World*, eds. Angeliki E. Laiou and Roy P. Mottahedeh (Washington, D.C.: Dumbarton Oaks, 2001) 6.

[858] According to Cornish, (*Chivalry*, 111-18), "...the Cid's personal prowess decided the fortune of battles and sieges; his pride and self-will had no respect for kings; he kept or broke faith with the Moors according to convenience; he burnt his prisoners alive in the square of Valencia... Bohemund killed and roasted some prisoners as a jest, to make the enemy believe that the Christians were cannibals. Some of the Christians (it is stated in their own chronicles) ate the flesh of Turks, 'making war upon God's enemies both with teeth and hands.'"

During the two centuries (1095-1290 CE) of intermittent wars between the Christians and Muslims, there were also intervals of peace, during which the two sides exchanged social courtesies and became better acquainted one with the other. Moorish (Spanish Muslim) ladies did not then veil their faces; they went hawking with knights, and presided at tournaments. In addition to accounts of Saracen maidens delivering Christian captives, many instances are found of intermarriage between Spaniards and Moors.[859]

In sum, when European Crusaders, bearing motives intermingled with faith and lust, entered into protracted confrontation with the Muslims in Spain and the Holy Land, their moral standards failed in all respects. However, these encounters brought interaction with Muslim societies and through this interaction, Europeans learned new standards of ethics, especially in warfare.

The Rough Chivalry Turned Soft

Western countries learned much about philosophy, science, poetry, and architecture through their contacts with Muslims in East and West. These multi-cultural influences changed the view of the Crusaders about the 'self,' the 'infidels' and 'others.' But among all factors that moderated the conception and conduct of the Crusades and chivalry, the ethics of war and the status of women in Muslim societies proved most influential.

As for war ethics, according to Cornish, "clemency and mercy to defeated enemies were no part of the knightly virtues in the time of Godfrey, and were learnt, not from the doctrines of the Gospel and the influence of the clergy, but from the example of the Saracens (Syrian Muslims) themselves."[860] Cornish concludes, "…rough Chivalry was rebuked and refined by the noble behavior of Saracens; and the character of Saladin himself counts for something in the sum. His fame as a knight was second to that of Richard alone."[861] In Taube's words, "in an epoch when still nothing similar existed in

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[859] Cornish, *Chivalry*, 135.

[860] Cornish, *Chivalry*, 113.

[861] Cornish, *Chivalry*, 136.

Europe (except perhaps certain theoretical pronouncements of some theologians) specific principles of positive law, humane and reasonable, were formulated by Muslims in the domain of law of war, and their example did not fail to affect the ideas of their adversaries…and helped shape the non-written laws of war in the late Middle Ages that today form the basis of Western thinking in international law."[862]

As for women, the Crusaders were highly impressed by the romantic literature and lifestyle of Muslims in the Holy Land. As a result, as European chivalry lost its preoccupation with war, it developed a romantic conception of women which included deference and respect for them.[863] Batty asserts that "after the turmoil of the Crusades had passed away women became preeminently the guiding star of chivalry; their beauty and influence over the impressive mind and actions of knight were nearly as powerful as that of religion . . . his [a knight's] motto was 'God and the ladies'—a curious combination…"[864] According to David Nicolle:

> The complications implicit in the concept of *courtly love* hardly applied since women were still all but excluded from the ideals of *knighthood. Courtly love,* in which a *knight* or *squire* was duty bound to honor and pursue the fair sex in a stylized yet still very real manner, developed separately under the influence of Arab-Islamic concepts of romantic love; only being integrated into the ideals of *chivalry* during the 13th and 14th century.[865]

Nicolle further notes that, "in most such verse-tales of the wars between Christianity and Islam, the *knightly* class saw their Saracen foes virtually as mirror image of themselves; equally brave, loyal and skilled, similarly motivated but nevertheless doomed simply because they fought for the wrong cause."[866]

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[862] Quotations by Mohaqqeq-Damad from: Baron Michel Taube, *Etudes sur le Developpment Historique du Droit International dans l'Europe Orientale,* 1927. See Mostafa Mohaqqeq-Damad, *Protection of Individuals in Times of Armed Conflict under International and Islamic Laws,* (New York: Global Scholarly Publications, 2005) 54-55.

[863] John Batty, *The Spirit and Influence of Chivalry* (London, New York, Bahrain: Kegan Paul, 2004) 40.

[864] Batty, *The Spirit and Influence of Chivalry* 43-4.

[865] Nicolle, Medieval Warfare, Source Book, Warfare in Western Christendom, 260.

[866] Nicolle, *Medieval Warfare, Source Book, Warfare in Western Christendom,* 260.

Respect for women, was itself a legacy of European contact with the Muslims. Yet, this legacy, at the same time, shaped conceptions of ethics in war. Cornish identifies two factors, 'respect for enemy' and 'romance,' adopted by the Crusaders through their contact with the Muslims. This led to what he concludes as the humanization of war and the growth of courtesy between enemies. The new conceptions helped make men milder in temperament.[867]

Two conclusions can be posited. First, cultural values encouraging 'respect for women,' and 'respect for enemy' were either non-existent or very weak in Western chivalry before the Crusades. Second, Muslim war ethics, and specifically the moral example of Ṣalāḥ al-Dīn, along with the Muslim respect for women greatly influenced the development of 'respect for women' and 'respect for enemy' among Westerners.

Ṣalāḥ al-Dīn's War Ethics And His Connections to the 'Ayyārūn

Ṣalāḥ al-Dīn has a special place of respect among historians of the Crusades for the code of conduct he maintained in waging war. Originally a Persian Kurd, Ṣalāḥ al-Dīn was influenced by 'ayyārī/futūwa ethics long before his departure with his uncle to Egypt.[868] According to some early sources, Ṣalāḥ al-Dīn was lax in his religious observance before he assumed military responsibilities..[869] He was, nevertheless, extremely generous and owed a much of his rise to power to this quality. All of these specifications fit the general 'ayyārī culture that was wide-spread and popular in Iraq and Jazīra at that time. Attention must be paid that Ṣalāḥ al-Dīn's origin was the Jazīra where the socio-cultural milieu was deeply influenced by the Shī'ī Hamdānids.

According to Ibn Shaddād, Ṣalāḥ al-Dīn's father Ayyūb Ibn Shādī, was born in Dvin, an Armenian city under the Shaddādid rule, a dynasty that flourished from the tenth to the twelfth century BCE in Northern Iran.[870] Abu'l-Aswār Shāwur, of

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[867] Cornish, *Chivalry*, 25, 26.

[868] Many medieval historiographical accounts (including that of Ibn Shaddād) stress that he was forced to accompany his uncle to Egypt on a military mission.

[869] *The Encyclopaedia of Islam,* new edition, s.v. "Ṣalāḥ al-Dīn" by D.S. Richards.

[870] Richards, *The Rare and Excellent History of Saladin,* 17.

Shaddādids ruled over Dvin (or Dwin) between 1022 to 1067 CE.[871] The very name of this ruler identifies his ties to the pre-Islamic *aswārān* (*asbārān*) warriors, predecessors of *'ayyārān* and *Javānmardān*. Ṣalāḥ al-Din's ancestors came from where the culture of *asbārī* /*'ayyārī* had historic roots. This family heritage perhaps explains Ṣalāḥ al-Din's chivalrous norms of conduct.

The Two al-Nāṣirs: The Intra-Faith Failure

Ṣalāḥ al-Din battled the Crusaders on behalf of Islam and, at least nominally on behalf of the caliph (al-Nāṣir). al-Nāṣir was the spiritual leader of the reformed *futūwa* associations. Ṣalāḥ al-Din paid him homage. Yet, the two were not always in solidarity.

al-Nāṣir was not always consistent in the ethical standards he maintained in this conflict. When 'Akka came under siege by European forces in 1189 CE and then remained under siege for almost two years, Ṣalāḥ al-Din appealed to the caliph for support.[872] However al-Nāṣir did not respond. He busied himself, instead, with conquering Arbil and Tikrit (Ṣalāḥ al-Din's birthplace).

The same neglect happened again in 1218 CE when Ṣalāḥ- al-Din appealed for help in lifting the siege of Damietha. The caliph did not respond.[873] al-Ashraf, Ṣalāḥ al-Din's nephew acted in a similar manner a few years later, in 1221 CE, when al-Nāṣir appealed for military assistance against Khwārazmshāhs and Mongols. This behavior, however, was not necessarily the norm. Richards argues that the Sinjārids and the Zangids assisted Ṣalāḥ al-Din many times during his anti-Crusades campaign despite the potential threat that a powerful Ṣalāḥ al-Din could pose to them.[874]

The inconsistency and, at time, the duplicity of al-Nāṣir eventually brought his doom. Al-Nāṣir's treatment of the last Saljūq (Ṭughril III) and the Khwarazmshahs mark similar behavior. First, he provoked the latter against the former bringing an end

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[871] *The Encyclopaedia of Islam*, new edition, s.v. "Shaddādids" by C.E. Bosworth.

[872] *The Encyclopaedia of Islam*, new edition, s.v. "al-Nāṣir Li-Din Allāh" by Angelika Hartmann.

[873] *The Encyclopaedia of Islam*, new edition, s.v. "Al-Nāṣir Li-Din Allāh" by Angelika Hartmann.

[874] *The Encyclopaedia of Islam*, new edition, s.v. "Ṣalāḥ al-Din al–Ayyūbī" by D.S. Richards.

to the Saljuqs in Iran in 1194 CE. He then instigated the attack of the Mongols against the Khwarazmshahs who threatened his power. This brought the Mongols into Iran. They eventually destroyed the caliphate.

Conclusions

The emergence of Umayyad power and the subsequent rise of slave soldiery under the Abbāsids had little to do with the ethics and humanitarian concerns of the early Islamic period. Ethical norms of war declined significantly after the Prophet. Irregular and para-statal militia whose roots lay mainly in pre-Islamic Persia, however, restored some concern for war ethics. During the late twelfth and early thirteenth centuries CE, Ṣalāḥ al-Dīn and the Abbāsid caliph al-Nāṣir promoted these ethics. Ṣalāḥ al-Dīn became its symbol. Al-Nāṣir reformed and revived its organizational framework.

Ṣalāḥ al-Dīn's attitude toward war and peace differed profoundly from the univocal conception of the 'abode of peace (*dār al-Islam*), and the 'abode of war (*dār al-ḥarb*).' He acted moderately and with respect for his enemy in contradistinction with the conventional norm of the day. He had his ethical counterparts among the Crusaders so that mutual appreciation and admiration developed between the two sides. If the scene of an anxious Christian mother, who embraces her daughter after losing her in the Muslim military camp, brought tears to Ṣalāḥ al-Dīn's eyes; if he cared that Christian prisoners of war must be able to reach their loved ones after their release; if he treated the local Christians and Jews in such a way that they preferred to live under him than their co-religionists and would-be 'liberators and protectors, the Crusaders; and if he declared that he cannot fight with an opponent after a friendly negotiation, his concern for an ethical ideal must have influenced him to a greater extent than the legalistic view of 'others.' He must have believed that peace is not the absence of war but "the point of war."[875]

Chivalry was an important impetus to Western just war theory. The basic treatise enshrining its most important principles appeared in the mid-twelfth century CE. The institution, however, reached its maturity in the thirteenth-century CE, that is

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[875] Terms used by John Finnis, in "The Ethics of War and Peace," 15.

immediately after Europe's encounter with Ṣalāḥ al-Dīn and other Muslims in the Holy Land. Through that experience, Europeans learned about 'respect for enemy' and were impressed by Muslims' romantic and respectful view of women. At the same time, the rise of just war theory coincided with the Renaissance of the thirteenth-century that was substantially inspired by Muslim intellectual contributions.

Ṣalāḥ al-Dīn's ethics of war was exemplary, but his manners were not standard and conventional in the medieval Muslim history. The next chapter will look at some other examples of the Muslim war ethics in action and a comparative evaluation of these ethics in a universal scale.

CHAPTER EIGHT

WAR IN THE MIRRORS OF COMPARATIVE HISTORY

<div dir="rtl">

جنگ هفتاد دو ملت همه را عذر بنه

چون ندیدند حقیقت ره افسانه زدند

</div>

> Leave aside the squabbling sects
> and their divisions: all seventy-two
> of them.
> Bereft of the Truth, they set out to
> hunt a Chimera.
> <div align="right">Shamsuddîn Mohammad Hāfcz[876]</div>

> The one who rules others
> will never conquer himself
> <div align="right">Tao Te Ching</div>

War ethics in its conception and practice varied in the Muslim world from sect to sect and from one ethnic culture to another over time. The first part of this chapter aims to survey the extent of this variation in the war practices of classical and early medieval periods. In the second and last part, the overall classical and medieval Muslim war records will be compared with those of other cultures to provide a bird's eye view of the global war ethics in those eras. As mentioned in the introduction, this chapter will not go beyond the Mongol invasion, for the post Mongol era has its own specific circumstances which necessitate its independent analysis.

War Ethics of the Umayyads and the Abbasids

Ibn Khaldūn (d. 748 AH/1383 CE), a Muslim scholar known as the father of sociology describes four kinds of war: tribal warfare, such as that which existed in the Arabian desert; feuds and raids which are characteristic of primitive people; wars prescribed by sacred law; and wars against rebels and dissenters. Because Ibn Khaldūn considered the first two types to have been caused by purely selfish and material human motives, he condemned them as unjustified and regarded only the last two as just wars, or worthy of an ethical or religious standard. As Mottahedeh has noted, "many military leaders exploited the image of jihād in popular piety by saying that they owed their legitimacy,

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[876] Khwāja Shamsuddîn Moḥammad Hāfez is the most renowned Persian poet of the fourteenth century CE.

268

at least in part, to their successful pursuit of jihād."[877] An examination of many so called 'jihād' ventures of the Umayyads and the Abbasids shows that these wars did not conform to the conceptions and the practice of war ethics in early Islamic experience.

The following selection of wars scenes as reflected in the accounts of major Islamic historians such as al-Ṭabari (d. 923 CE), Bayhaqi (d.470 AH/1077 CE), and Jowayni (d. 681 AH /1283 CE) provide some proof for this claim.

Al-Ḥajjāj: The Irrelevance of Numbers

Al-Ṭabari's chronicle presents evidence of war records on part of the Umayyad Governor of the Ḥijāz, Iraq, and Khurāsān, al-Ḥajjāj (d. 95 AH/714 CE). This leader massacred tens of thousands of prisoners of war in 83 AH/702-703 CE, after deceiving them with a false promise of amnesty. al-Ṭabari relates:

> In the battle of Zāwiya, al-Ḥajjāj killed eleven thousand and spared only one combatant, whose son was one of al-Ḥajjāj's secretaries. Al-Ḥajjāj said to the secretary, "Do you want us to forgive your father for you? He replied in the affirmative, and al-Ḥajjāj left the father to his son. Al-Ḥajjāj deceived the prisoners by means of principle of safe conduct; he gave orders to a crier, who called and singled out the saved and unsaved men at the defeat, and named men from those *ashrāf*, without verbally guaranteeing their safety. The rank and file then protested against this exclusion and began to advance to al-Ḥajjāj's compound. When they had gathered together, al-Ḥajjāj ordered them to lay down their arms, and said "today I shall order to deal with you a man to whom you are not related." He ordered 'Umārah b. Tamim al-Lakhmi to deal with them; 'Umārah then brought them near and then killed them. It has been related on the authority of al-Naḍr b. Shumayl that Hishām b. Ḥassān said that the number of people killed in bonds by al-Ḥajjāj reached a hundred twenty or thirty thousand.[878]

Qutayba Ibn Muslim: Killing in Style

Qutayba Ibn Muslim (d. 96 AH/715 CE) acted in a similar manner. al-Ṭabari reports that in 91 AH/709-710 CE, Qutayba who was then the Umayyad governor in Khurāsān, killed 12,000 prisoners in his Tranoxiana campaign against Nizak Ṭarkhān.[879] In the

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[877] Mottahedeh, and al-Sayyid, "The Idea of Jihād in Islam before the Crusades," 25.

[878] Al-Ṭabari, *The History of Al-Ṭabari: The Zenith of the Marwānid House,* trans. Martin Hinds (Albany: State University of New York Press, 1990) 67, 68.

[879] Al-Ṭabari, *The History of Al-Ṭabari: The Zenith of the Marwānid House,* 170.

year 93 AH/711-712 CE, Qutayba killed several thousand prisoners in a war against the Khwarazmshah.

Once the latter campaign ended, al-Ṭabarī reports that "Qutayba ordered his throne be brought out, and he appeared before the people sitting on it. He ordered that the prisoners be killed; one thousand were killed in front of him, one thousand to his right, one thousand to his left, and one thousand behind him."[880]

Yazīd Ibn Muhallāb: the Cost of Keeping an Oath on Blood:

Yazīd b. Muhallāb (d. 102 AH/720 CE), the governor in Khurāsān, also engaged in the execution of prisoners of war. In the year 97 AH/715-716 CE, he raided the northern Iranian towns of Jurjān and Ṭabaristān. Al-Ṭabarī reports that he took prisoner not only soldiers but their women and children. He then executed a number of soldiers, crucifying them at a distance of two *farsakh* (equivalent to twelve kilometers) to the left and right of the road. Yazīd b. Muhallab also drove twelve thousand of the remaining prisoners to al-Andarhaz, the Wādī (desert) of Jurjān, and said, "whoever seeks blood revenge from them may slay whomever he wishes." Each Muslim slew as many as four or five men with the result that the water (a stream used for a watermill) in the Wādī turned red from the blood. Yazīd then was able to grind wheat with the bloody-water, made and ate the avowed bread and thereby symbolically released himself from an oath he made to himself before the war. In the end, some sources claim that he killed as many as forty thousand people in Jurjān."[881]

Caught between Faith and Death

Although the cases of al-Ḥajjāj, Qutayba Ibn Muslim, and Yazīd b. Muhallāb are obvious breaches of the original Islamic norms of behavior in war, the military performances of these men were perfectly matched the norm of war practices beyond the Islamic borders; the following cases will reflect on this claim.

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[880] Al-Ṭabarī, *The History of Al-Ṭabari:, The Empire in Transition,* trans. David Stephan Powers (Albany: State University of New York Press, 1989) 186.

[881] Al-Ṭabarī, *The History of Al-Ṭabari: The Zenith of the Marwānid House,* 57-8.

Al-Ṭabarī reports that in the year 223 AH/837-38 CE, Theophilus, the son of Michael (the second ruler of the Amorian dynasty) the Christian ruler of the Byzantines, fell upon the inhabitants of Zibaṭrah,[882] taking them captive and devastating their town. He then proceeded to Malaṭyah and began to attack its people and successively attacked people of various fortresses held by the Muslims. Theophilus enslaved Muslim women-- over a thousand of them, it is said--and made an example of those Muslim men who fell into their hands by gouging out their eyes with hot irons and cutting off their ears and noses.[883] Muslim retaliation to this came in the same year, from the Abbasid caliph Al-Muʿtaṣim (d. 227AH /842 CE) in his attack on Ammūriyyah. This is where he, according to al-Ṭabarī, ordered the massacre of six thousand prisoners en masse.

Ibn Athīr similarly reports that in the year 241 AH/855 CE, the Roman Queen Theodore massacred twelve thousand Muslim prisoners of war. She used to offer prisoners amnesty if they converted to Christianity, or else they would die. Her cases of taking ransom to free the prisoners were rare. In 241 AH/855 CE, the caliph al-Mutawakkil (d. 247 AH/861 CE) exchanged Christian prisoners for eight hundred and seventy-five Muslim soldiers, along with one hundred and twenty-five women.[884]

The War Ethics of the Amirs and Sulṭāns

Ṭāhir Ibn Ḥusayn (d. 205 AH/821 CE),[885] who supported al-Ma'mūn's (d. 218 AH/833 CE) bid for the Caliphate in 204 AH/819 CE, helped lay the foundations for the dissolution of 'Abbasid power through the empowerment of Amirs and later Sulṭāns. These dominated the caliphate by the time the Būyids (320-448 AH/931-1057CE) took power in Baghdad. After the Ṭāhirids, the local dynasties such as the Sāmānids (204-395 AH/819-1005 CE), the Ṣaffārids (247-393 AH/861-1003 CE), and the Būyids

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[882] Zibaṭrah is a fortress in al-Jazirah, the Greek Sozopetros.

[883] Al-Ṭabarī, *The History of Al-Ṭabarī: Storm and Stress Along the Northern Frontiers of the 'Abāsid Caliphate,* trans. C. E. Bosworth (Albany: State University of New York Press, 1991) 93.

[884] 'Izzaddīn Ibn Athīr, *Al-Kāmil fi'l Tārich* (in Persian) trans. Hamidreḍa Āzhīr, several vols. (Tehran: Asāṭir Publication, 2002) vol.9, 4137.

[885] Ṭāhir Ibn Ḥusayn is the founder of the Ṭāhirids (205-78 AH/821-91 CE).

became more autonomous and more powerful dynasties. Unfortunately, primary sources provide scant information about their war ethics.[886] Only in the time of Sultan Maḥmūd Ghaznavī (d.421 AH/1030 CE) do they provide sufficient detail for analysis.

The Būyids' War Ethics

The Būyid dynasty originated in Northern Iran and expanded gradually through Iraq and central and western Iran between the mid-tenth and mid-eleventh centuries (945-1055CE). It was the first dynasty to control Baghdad and the caliphs residing there. It also linked its genealogy to the Sasanid dynasty. The historian and ethicist Ibn Miskawayh who served in the court of the most prominent Būyid Air namely 'Aḍud al-Dawla (d. 372/983) provides a detailed account of his rule in *Tajārib al-Umam*. According to Faqihi, most primary sources of the Būyid history, including *Tajārib al-Umam*, extol the dynasty for its relatively lenient and humane behavior in war.

According to Faqihi, when 'Imād al-Dawla (d. 338/944) defeated the 'Abbasid governor of Fārs in Southern Iran, he prohibited the looting of the province by his troops.[887] Ibn Miskawayh similarly reports that when Mu 'izz al-Dawla (d. 356/967) entered Baghdad, he banned torture, imprisonment, maltreatment of prisoners and other inhumane customs of the Turkish troops present in Baghdad.[888] 'Aḍud al-Dawla acted in the same way when he seized Baghdad. He gave full amnesty to its inhabitants.[889] Although the Buyids were engaged in frequent wars, their "armies," according to Hugh Kennedy, were small, much smaller than those of the early 'Abbasid period or of the Seljuk Turks, and the wars do not seem to have been very destructive." [890]

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[886] There is one report by Ibn Athīr on the war between the Daylamite 'Imād ad-Dowla and Yāqūt the governor of Shiraz. According to this report, although Yāqūt executed all the Daylamite soldiers who sought amnesty from him, Imād ad-Dowla did not retaliate after his victory in 322 AH/934 CE, rather, he released all of his prisoners. For more, see Ibn Athīr, *Al-Kāmil fi'l Tārikh*, vol.11, 4836.

[887] Asghar. Faqihi, *Shāhanshāhī-e (The Kingdom of) Aḍud al-Dawla*, (Tehran: Soleimani Publications, 1968) 33.

[888] Asghar. faqihi, *Āl-e Būy-e va Ozā '-e Zamān-e Ishān (The Buyids and the Situations of their Era)*, (Tehran: Gilan Publishing, No dates) 122.

[889] Asghar. Faqihi, *Shāhanshāhī-e (The Kingdom of) Aḍud al-Dawla*, (Tehran: Soleimani Publications, 1968) 32.

A Memorable Samanid War

The Samanid dynasty, which ruled in northeastern Iran, Transoxania, and Russia for close to two centuries (206-395/819/1005), emphasized the peaceful development of their lands.[891] The dynasty, followed the Hanafi school of law, though Amir Nasr the second had Shi'i inclinations. The dynasty promoted religious pluralism and intellectual inquiry. This brought the emergence of many notable thinkers such as Ibn Sina, Biruni, Ferdowsi, etc.

A war broke among the Samanid princes in 275 AH / 888 CE when the two brothers Amir Ismā 'il (d.907) and Amir Nasr Ibn Ahmad (d. 892) fought for control of the government. Amir Ismā 'il, the younger brother defeated Amir Nasr (I), but against the expectation of his troops, showed the utmost respect toward his defeated brother. He let him remain ruler of the dynasty, seated in Samarqand with all privileges till he passed away four years later. Heravi quotes the story from Abu'l-Hasan Bayhaqi's *Tārikh-e Bayhaq*, as follows:

> Once Amir Ismā 'il (the triumphant in war) approached his defeated older brother Amir Nasr, he got off his horse, kissed his feet while the Amir Nasr was still on his horse, and said: "now that the bad omen is over, you must take your troops and servants and go back to your court in Samarqand." Amir Nasr asked: "are you joking or serious"? Amir Ismā'il responded: "I seek refuge to Allāh if I ever dare to talk to you in sarcasm." Amir Nasr was perplexed and left for Farghana while he had a clear heart about his brother and made him (Ismā 'il) his crown prince.[892]

Such an act of magnanimity was rare. Medieval historiographers often refer to cases where brothers or fathers have blinded their respective brothers or sons to safeguard their political fortunes.

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[890] Hugh. Kennedy, *The Prophet and the Age of the Caliphates,* (London and New York: Longman, 5th ed. 1992) 249.

[891] Barthold, paraphrased in Javad Heravi, *The Samanid History, the Golden Era of Iran after Islam,* (Tehran: Amir Kabir Publisher, 2001) 67.

[892] Javad Heravi, *The Samanid History, the Golden Era of Iran after Islam,* Amir Kabir Publisher, Tehran, 2001, p.151. See, Abu'l-Hasan Bayhaqi, *Tārikh –e Bayhaq,* Ahmad Bahmanyar, ed. Vol.3, (Tehran: Forouqi, 1982) 68.

Maḥmūd Ghaznavī's Seasonal Wars

In addition to being a great warrior, Maḥmūd Ghaznavī was reportedly so knowledgeable about Islamic law that some of his associates considered him a jurist. He established a great empire which spanned from India to central Iran. However, despite, being a warrior-jurist, he often did not observe the highest standards of the Islamic war ethics with which he surely was acquainted. At the same time, as Bayhaqī reports, Maḥmūd's court was one of the greatest centers of culture and knowledge in his day. In fact, he was keen to kidnap scholars of other courts. Knowledge and learning did little to moderate Maḥmūd's savagery in battle.

Several sources report how Maḥmūd massacred more than fifty thousand Shī 'ites (called *rāfiḍī* at the time) in the central Iranian town of Ray, in order to rid his Sunnī state of religious dissidents and to curry favor with the Abbasid caliph.[893] Gardīzī (443 AH) reports that many of the Shī'ī prisoners of war were killed by torture (stoned).[894] When he attacked Sistān in 393 AH/1002 CE, he hired Indian infidels (*kāfir*) as soldiers. These attacked the Muslim residents of the city. They looted and destroyed the great Zaranj Mosque (*Masjid-e Jāmi'* of *Zaranj*), and killed many of the resident Christians of that city.[895] It is perhaps for this reason that Bosworth described the Ghaznavid Empire (367 AH/977-8 CE to 583 AH/1187 CE) as an army and state in a single entity.[896] Given the fact that a predominant majority of the Muslim armies were composed of Turkish slaves or Turkish prisoners of war,[897] it perhaps is naïve to expect them to observe Islamic war ethics in their numerous campaigns.

Sultan Maḥmūd's heir Mas'ūd (d.431 AH/1041 CE) did not depart from his father's code of conduct in war. In the year of 426 AH/1035 CE, when Mas'ūd won a

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[893] Clifford E. Bosworth, *The Ghaznavids*, translated to Persian by Ḥasan Anousheh (Tehran: Entesharat-e Amir Kabir, 1999) 52.

[894] Abū Sa 'īd Gardīzī, *Tārīkh-e Gardīzī*, 'Abdulḥayy Ḥabībī ed. (Tehran: Donyay-e Ketab, 1985) 418.

[895] Bosworth, *The Ghaznavids* 86.

[896] Bosworth, *The Ghaznavids* 95.

[897] Bosworth, *The Ghaznavids* 97.

battle against the Turkomens of Khurāsān, he had all prisoners thrown under the feet of the fighting elephants.[898] During Masʿūd's attack against the northern Iranian city of Āmūl, his troops entered a mosque and massacred all Muslims present in the midst of their prayer.[899]Mas ʿūd's heir Mowdūd followed similar style of savagery in war. Gardīzī reports that when Mowdūd defeated the army of his uncle Amir Muḥammad, he ordered a number of prisoners to be killed by tying them to the tails of drunken horses.[900]

As Gardīzī and other sources report, during his reign Mahmūd frequented his military campaigns in India to at least one campaign a year.[901] Bosworth points that many primary Islamic sources cite ideological motivations for Maḥmūd's numerous and systematic Indian military campaigns, however according to Bosworth it is beyond doubt that Maḥmūd's successors had any motive other than financial reasons in their similar campaigns. For example, Mowdūd Ghaznavī (d.1048 CE) continually invaded India because he needed new sources of income after having had lost the city of Khurāsān to the Saljūqs (1039-1194 CE).[902] Against the above assertions there are few reports about rare cases when Maḥmūd and Mowdūd backed down from their campaigns once the attacked parties agreed to convert to Islam, but these cases are nevertheless too rare to establish a moral pattern in war.[903]

The history of the Saljūqs does not reveal a different approach to war ethics from that of Ghaznavids; perhaps to be expected as after all, both regimes were of common

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[898] Bosworth, *The Ghaznavids* 258.

[899] Abū'l Faḍl Muhammad Ibn Ḥusayn Bayhaqī, *Tārīkh Bayhaqī*, eds. Ghani and Fayyāḍ (Tehran: Arghavan Publishing, 2002) 463.

[900] Abū Sa ʿīd Gardīzī, *Tārīkh-e Gardīzī*, ʿAbdulḥayy Ḥabībī ed. (Tehran: Donyay-e Ketab, 1985) 442.

[901] According to Gardizi, Maḥmūd developed a habit of winter military campaigns in India. See Abū Sa ʿīd Gardīzī, *Tārīkh-e Gardīzī*, ʿAbdulḥayy Ḥabībī ed. (Tehran: Donyay-e Ketab, 1985) 411.

[902] Bosworth, *The Ghaznavids*, 322.

[903]See Gardīzī's report on Maḥmūd's campaigns against Qīrāt (India) and Nanda (India) and Mowdūd's campaign against Direhrām (Rampur India) respectively. Gardīzī, *Tārīkh-e Gardīzī*, ʿAbdulḥayy Ḥabībī ed. (Tehran: Donyay-e Ketab, 1985) 401, 403, 433.

origins from a Turkic nomadic steppe-culture. This thesis has already examined a source on the Saljūqs, in Chapter Six.[904]

The Mongol Eruption: A Drastic Change in War Ethics

The deluge of Mongols which descended on the Middle East in the early thirteenth-century CE shook the foundations of its Islamic civilization. In the realm of war ethics, sources reveal a broad transformation away from the ethical norms which had previously been established toward the near absence of any code of conduct

Jūwaynī depicts the seizure of Ṭāliqān, a city in greater Khūrāsān or Transoxania, in the following way: "once Tuli, the son of Ginghiz-Khan (d.1227 CE) subdued Khūrāsān, he arrived at Ṭāliqān and conquered the city by force, leaving no living species there whatsoever."[905] In another report concerning the Mongol attack against the city of Khutay in Central Asia, He relates that the Mongol troops, after defeating their enemy, raped all of their prisoners on the order of their commander.[906]

On one of their Russian campaigns, the Mongol army collected two hundred and seventy thousand pair of severed ears.[907] After suppressing resistance in the towns of Zāve and Khawāf on his way to Baghdad, Hulagu (d. 663 AH/1265 CE) forced the town's inhabitants into the nearby desert and executed anyone over the age of ten.[908]

Perhaps the lone attitude of chivalry attributed to Genghiz-Khan is what Juwaynī has reported. This Mongol leader admired the courageous passage of Jalāl al-Dīn Khwārazmshāh across a river. He then turned to his sons and stated, 'such a son

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[904] Muḥammad Ibn 'Alī Ibn Sulaymān Ar-Rāwandī, *Rāḥat-uṣ-Ṣudūr wa Āyat-us-Surūr*, ed. Muḥammad Iqbal (Leiden: E. J. Brill, 1921).

[905] 'Alā 'al-Dīn 'Atā Malek Juwaynī, *Tārīkh-e Jahāngushā*, ed. Muḥammad Qazwini (Leiden: E.J. Brill, 1911) vol.1, 105.

[906] Juwaynī, *Tārīkh-e Jahāngushāy*, vol. 1, 153.

[907] Juwaynī, *Tārīkh-e Jahāngushāy*, vol.1, 235.

[908] Juwaynī, *Tārīkh-e Jahāngushā*, vol.3, 103.

must all fathers have;' subsequently, he forbade his soldiers to chase or shoot Jalāl al-Dīn.[909]

Comparative War Ethics: A Medieval Perspective

Thus far, this work has provided a selective, critical view of the principles and practices of war ethics throughout the Eastern Islamic lands from the time of the first Prophetic battles until the Mongol incursions. Throughout the discussion, many extreme cases were brought into focus, with the aim of providing a rather broad perspective of the subject matter. However, the understanding and appreciation of Islamic war ethics is not attainable unless these ethics are evaluated within the landscape of its contemporary international practices. In other words, the status and the value of Islamic war ethics can be fully realized only in comparison with war ethics in other cultures. Fortunately, the war sourcebooks provided by Nicolle makes this task possible.

The Comparative Causes of Wars: *Jus ad Bellum*

As previously discussed, the most important aspect of war is the justification of its causes and motives, or *jus ad bellum*. In Islam, just war is warring in the way of God. Warring in the way of God, nevertheless, is controversial as various jurists, exegetes, theologians, sociologists, Ṣūfīs, philosophers, politicians, caliphs, imāms, sultans and others seek to define 'the way.'

Nicolle notes that, while the response by many Muslim scholars to the culture of *ghāzī* (jihādī warrior) was generally one of enthusiasm, there were some who held more critical views of it. One such scholar was the Iraqi author Jāhiẓ (d.255 AH/869 CE). Nicolle explains:

> His (Jāhiẓ) analysis of the qualities required of a commander and an ordinary soldier show a remarkably rational attitude. He insisted that religious commitment was rarely enough on its own, and had to be supplemented by anger, revenge, alcohol, stupidity, inexperience of the realities of war, natural blood thirstiness, hatred of foreigners, personal ambition or fear of punishment."[910]

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[909] Juwaynī, *Tārīkh-e Jahāngushā*, vol.2, 143.

[910] David Nicolle, Medieval Warfare, Source Book, Christian Europe and its Neighbors (London: Brockhampton Press, 1998) 259.

It is perhaps through this multi-faceted perspective that Nicolle examined Christian motivations and causalities in wars. In the same way, he notes the myriad of attitudes and principles that shaped a conflict's denouement:

> Even in religious terms, it was the vengeful principles of the Old Testament rather than the forgiving one of the New Testament, which dominated military attitudes throughout the medieval period. This was particularly true when wars involved religion. For example, Charlemagne terrorized his Avar foes by widespread massacres and eventually slaughtered the entire population of the Avar capital.[911]

One of the most important and perhaps the longest wars waged by the Christian community in the name of God were the Crusades. These religious conflicts fused notions of the 'just war' and 'holy war.' This ideology largely developed in the Iberian Peninsula as the Christians re-conquered it from the Muslims.[912] The pretext of the Crusades in the Middle East was to support the Eastern Christians against Muslim invasions. However, as many Western scholars have argued, these conflicts were instigated by many other motives, including the desire to destroy Islam.[913]

During medieval times, religion was not simply a matter of faith but a source of identity; it held a role that ethnicity played in later eras.[914] According to Nicolle, this is probably why, between the 11th and the 13th centuries, the Christian Church had such great influence in the instigation and direction of many of these conflicts. It sought to channel the 'warlike energies' of Europe's military elite in a way that would serve their official interests.[915] During the fourteenth-century, however, the legitimation of royalty shifted from religion to the secular state. Nicolle goes so far as to assert that war in the

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[911] David Nicolle, *Source Book, Warfare in Western Christendom* (London: Arms and Amour Press, 1995) 246.

[912] Nicolle, *Christian Europe and its Neighbors,* 235.

[913] Nicolle, *Christian Europe and its Neighbors,* 259.

[914] Nicolle, *Warfare in Western Christendom,* 256.

[915] Nicolle, *Warfare in Western Christendom,* 260.

twelfth-century CE followed only religious motivations and from the fourteenth-century CE, only secular ideological motivations.[916]

Economic gains were also an important incentive for the Europeans in these wars. Nicolle states that most of the European naval raids across the Mediterranean during the eighth and ninth-century CE were intended to seize Muslim slaves.[917] He points out that, "...in the mid-13th century, for example, the Pope discovered that some Italian merchant ships were transporting captive Greek, Bulgarian, Rutherian and Vlach Christians into slavery, while pretending that these victims were actually Muslim prisoners of war from Crusader States."[918]

Against such contemporary backgrounds some Christian and Muslim thinkers sought most vigorously to contain and moderate the destructive forces of war. Nicolle asserts that:

> Many of the leading legal thinkers of the age of the Crusades and Reconquista were influenced by Muslim ideas where the legal framework of warfare was concerned. In the 13th century the three preconditions laid down by St. Thomas Aquinas for *just war* had clear parallels in Islamic law; these being due authority, just cause, and good intention.[919]

Certainly, not all jurists worked to limit the cause and the extent of war. For example, while the repeated failures of the Crusades convinced some Christian thinkers that they were at best misguided and might actually be practicing immoral aggressions, some experts in the canon law of Crusading maintained that Islam existed merely so that Christians could gain merit by waging war against them.[920] This parallels views of Muslim jurists like al-Shāfi'ī, who thought doing a jihād a year was a minimal religious obligation. Such rulings, as mentioned in previous chapters, were sometimes exploited

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[916] Nicolle, Warfare in Western Christendom, 260.

[917] Nicolle, *Warfare in Western Christendom*, 246.

[918] Nicolle, *Warfare in Western Christendom*, 247.

[919] Nicolle, *Christian Europe and its Neighbors*, 235.

[920] Nicolle, *Christian Europe and its Neighbors*, 236.

by Muslim rulers, according to Nicolle, to aggrandize their personal authority.[921] However, the legal frameworks in which these wars took place were clearer in the Muslim world than in the Christian world. Warring for worldly rewards was not justifiable in Islamic tradition.[922]

Islam, moreover, since the time of Ja 'far al-Ṣādiq, has discouraged popular jihād campaigns, firmly resisting what Nicolle calls 'the cult of martyrdom.' Martyrdom, on the other hand, was very much part of the spirit of the Christian Crusades.

The idea that those Crusaders who died during the Crusades were martyrs does not seem to have been accepted during the First Crusades but became popular in the twelfth-century and central to the self-sacrificing ethos of the Military Orders, particularly the Hospitallers. There are, in fact, similarities between the 'cult of martyrdom' of these military Orders and various militarized Ṣūfi or mystical Islamic brotherhoods of this period.[923]

The Comparative Qualities of War: *Jus in Bello*

The view that victory in battle is proof of divine approval, and therefore a positive judgment from God, has been held not only by Christian culture, but by pre-Islamic Persian culture as exampled by the Sasanid principle of 'might was right,'[924] and Islamic cultures as well. Nicolle asserts that the idea of trial by combat continued in Christianity up to the tenth-century CE.[925] A grave consequence of this widely and universally held principle was the pursuit of victory at any cost. In other words, it tended to disregard humanitarian concerns in war (*jus in bello*).

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[921] Nicolle, *Christian Europe and its Neighbors*, 236.

[922] Nicolle, *Christian Europe and its Neighbors*, 236-37.

[923] Nicolle, *Christian Europe and its Neighbors*, 259.

[924] Nicolle, *Christian Europe and its Neighbors*, 238.

[925] Nicolle, *Christian Europe and its Neighbors*, 237.

The Treatment of Prisoners of War

The question of the treatment of prisoners of war is one of the best indications of the humanitarian concern in war and a prime criterion of *jus in bello* in this work. Commenting on pre-Islamic Arab treatment of prisoners of war, Nicolle notes that, although the sexual violation of captured women was practiced both in pre-Islamic and Muslim Arab lands, "in both periods this involved a symbolic act of communal humiliation rather than sexual penetration."[926]

In comparison, the Persian Sasanid king was expected to show no mercy to his prisoners. Nicolle notes that Shāpūr II (d. 379 CE), was celebrated as the 'the shoulder man' because he dislocated the shoulders of all captured Arabs of military age, in order to debilitate them and make them incapable of further military combat.[927]

In early Christian Europe, Nicolle states:

> The pagan-Germanic tradition of killing all prisoners of war, including women and children, or of keeping only those of pre-puberty age as slaves gradually died out. Nevertheless, widespread and indiscriminate massacres as well as enslavement continued to characterize warfare in early medieval Western Europe."[928]

The enslavement of fellow Christians continued to be practiced in certain periphery areas; particularly in Ireland and as late as the twelfth-century CE.[929]

Captives in Christian Europe were also often physically harmed as retribution. According to Nicolle, the mutilation of prisoners of war continued for several centuries. For example, one ninth-century CE Bulgarian ruler used to slit the noses of his Byzantine war prisoners before sending them home. In response, the Byzantine Emperor

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[926] Nicolle, *Christian Europe and its Neighbors*, 243.

[927] Nicolle, *Christian Europe and its Neighbors*, 241.

[928] Nicolle, *Christian Europe and its Neighbors*, 246.

[929] Nicolle, *Christian Europe and its Neighbors*, 246.

blinded the majority of his Bulgarian captives.[930] Elsewhere in Europe, the treatment of prisoners of war was not any better.[931]

Nicolle notes that the first real evidence of changing attitudes towards the captives and victims of war was in late tenth-century CE France.[932] However, this change did not result from humanitarian concerns; rather from European interest in prisoners as a valuable commodity. As Nicolle explains, "by the 12th century…barbarism towards prisoners of war was regarded as dishonorable and a waste of potentially valuable ransom."[933]

From the eleventh to the fourteenth centuries CE, Christian armies enslaved most of their Muslim prisoners or slaughtered them.[934] Nicolle adds that, "the Hospitallers on the island of Rhodes habitually killed all their Muslim prisoners of war. So did the Catalans, who ravaged early 14th century Anatolia, and killed all Muslim males over ten."[935]

Nicolle admits that "compared with the brutality seen in so many Christian countries, the treatment of captives in the Muslim world was generally more humane, this being rooted in religious belief."[936] Muslim laws prohibited the killing of women, children, the old or sick, the destruction of fruit-bearing trees, bee-hives and private houses, and the slaughter of flocks or herds except when in need for food. In addition, soldiers were instructed that they should not mutilate the enemy, nor break promises or offers of safe conduct even if these were given by gesture rather than the spoken or written word.[937]

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[930] Nicolle, *Warfare in Western Christendom*, 247.

[931] Nicolle, *Christian Europe and its Neighbors*, 247.

[932] Nicolle, *Christian Europe and its Neighbors*, 248.

[933] Nicolle, *Christian Europe and its Neighbors*, 248.

[934] Nicolle, *Christian Europe and its Neighbors*, 248.

[935] Nicolle, *Christian Europe and its Neighbors*, 242.

[936] Nicolle, *Christian Europe and its Neighbors*, 242.

[937] Nicolle, *Christian Europe and its Neighbors*, 237.

The conflicts between Christian and Muslim warriors resulted in more than violence; they brought a wide range of cultural contacts. As a result of these, Europeans were impressed by the humane treatment of the prisoners of war by Muslims. Nicolle states: "...Christian western Europe began adopting the Islamic practice of offering generous surrender terms to the garrisons of fortified places, while also threatening that if such places were stormed their defenders will lose all rights to generous treatment."[938]

In contrast, the Central Asian Turks and Mongols often slaughtered prisoners outright, and in some cases, massacred on a much larger scale.[939] According to Nicolle, Tīmūr Lang (d. 1405 CE) "behaved more like a Central Asian pagan than a Turko-Persian Muslim ruler, using prisoners as front-line sappers, hurling an entire garrison over a cliff, building live captives into-brick walls and erecting towers of mud and skulls as a warning to those who might oppose his power."[940] In sum, Mongol and Central Asian (exampled by Tīmūr Lang) tradition had no use for prisoners of war, and thus treated them harshly.

Booty

Economic incentives are one of the most important impetuses for war in almost all human cultures, hence the proverb, 'War is not about what is right; it is about what is left.' The plunder and looting of caravans, cities, villages and enemy camps has prominently motivated the armies of all warring cultures. This observation is true for both Christian and Islamic civilizations, though religious and ideological motivations often remained paramount. An important issue related to this psychological reality is the way the spoils of war were distributed among the soldiers and commanders who seized them.

Prophet Muḥammad established very early on the norm of distributing four fifths of the booty among the soldiers and taking one fifth for himself or the Islamic state. While other norms of Islamic law were implemented in haphazard fashion, this norm

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[938] Nicolle, *Warfare in Western Christendom*, 248.

[939] Nicolle, *Christian Europe and its Neighbors*, 244.

[940] Nicolle, *Christian Europe and its Neighbors*, 244.

was systematically observed in subsequent centuries. In Western Europe, in contrast, no such norm existed for the division of booty. The state or king customarily received at least a third of the booties.[941]

The Crusades exacerbated this disparity. According to Nicolle, "the Crusader states' continuing shortage of money probably also accounted for the fact that the king of Jerusalem, took half of the loot; more than was normal in Western Europe."[942]

Some Europeans may have been influenced by the Muslim norms. The Iberian booty law, for example, which was followed between the eleventh and the sixteenth centuries CE, brought about a more even division of booty. [943]

Combatants and Non-Combatants

The Muslim distinction between combatants and non combatants may also have influenced European practices.[944] In Islam, slaves were considered non-combatants. Furthermore, according to Nicolle, "rural civilians were generally left in peace, and urban civilians fared almost as well because the Muslims wanted to take such lands intact--including their wealth-producing populace. Muslim military philosophy was closer to that of China than western Europe."[945] In Europe, inflicting indiscriminate damage and death upon the enemy was not unusual. According to Nicolle, corpses were sometimes thrown into an enemy's fortification in order to spread disease.[946] This is tantamount to the biological weapons of modern times.

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[941] Nicolle, *Warfare in Western Christendom*, 238.

[942] Nicolle, *Christian Europe and its Neighbors*, 240.

[943] Nicolle, *Christian Europe and its Neighbors*, 239.

[944] Nicolle, *Christian Europe and its Neighbors*, 242.

[945] Nicolle, *Christian Europe and its Neighbors*, 242-43.

[946] Nicolle, *Warfare in Western Christendom,* 248.

A Global Perspective

As previously noted, the Mongol invasions brought significant changes to attitudes on the battlefield. According to Nicolle, battlefield savagery increased during the thirteenth and the fourteenth centuries CE largely due to the influx of Mamluk Turks and Mongols.[947] The Turks, in particular, instilled a sense of military destiny to Muslim armies.[948]

Although the Mongols and after them the nomadic Turks had a notable record for savagery, the White Russians and the Ukrainians were also brutal.[949] Pre-Islamic Arabian society had certain restraint and therefore ethics in war but, in Nicolle's opinion, cultivated a deserved reputation for ferocity.[950]

In the ancient world both Cyrus the Great and Alexader the Great had good reputation for ethics of war. An impressive period of Pax Achaemenis appeared under Cyrus. As Toynbee mentions, after defeating the Cresus (king of Lidia) in a war (*ca.* 560-546 BC), Cyrus appointed Cresus as his advisor instead of following the standard of the time and burn him alive.[951] As already mentioned, Alexander the Great also observed certain principles of ethics in war. For example he despised night attacks for he considered success resulting from such attacks as "stealing victory."[952]

Successors to Cyrus and Alexander did not have similar reputations. Although the Sasanid king Anowshirvan gained the reputation of a just king, other members of the dynasty did not leave impressive records. The Byzantines were not superior to the Persians. Nicolle asserts that "in many ways, the Byzantine Empire was as ruthless as its

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[947] Nicolle, *Christian Europe and its Neighbors*, 244.

[948] Nicolle, *Christian Europe and its Neighbors*, 59.

[949] Nicolle, *Christian Europe and its Neighbors*, 260.

[950] Nicolle, *Christian Europe and its Neighbors*, 241.

[951] Khosrow Reza'i, trans. *Arnold J. Toynbee's Views on War and Civilization*, (Tehran:1993)144.

[952] See footnote number 595 page 194 of this work.

Sāsānid rival, though such ferocity was never given a religious sanction."[953] Lapidus, on the other hand, claims that "The Sasanian Empire "was by and large tolerant of the various religions under its jurisdiction while the Byzantine Empire insisted on religious unity and persecuted schismatic churches." [954]

The war literatures of the Byzantine however did record some mixed responses to the ethics of war. Onasander, a Greek author of first century CE who had influence on Byzantine generals showed impressive sensitivity to the just cause for war for it brings gods to the side of just warriors.[955] Flavius Vegetius, a Byzantine writer of the late fourth century CE however advises the following: "It is much better to overcome the enemy by imposing upon him famine, surprise or terror than by general actions, for the latter instance has often a greater share than valor."[956]

The worst case of Sāsānid inhumane behavior in war mentioned in most of the medieval historiographies is the already mentioned Shapur's treatment of the Arab prisoners of war when the shoulder bones of close to fifty thousand of these prisoners were dislocated so that they become disabled.[957]

The Byzantine war historian Procopius (d. late fifth-century CE), who documented the Byzantine Emperor Blizarius' campaigns, suggests the Persian-

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[953] Nicolle, *Christian Europe and its Neighbors*, (London: Brockhampton Press, 1998) 241.

[954] Ira M. Lapidus, *A History of Islamic Societies,* 2nd ed., (Cambridge: Cambridge University Press, 2002) 8.

[955] Onasander wrote: "The cause of war, I believe should be marshaled with the greatest care; it should be evident to all that one fights on the side of justice. For then the gods also, kindly disposed, become comrades in arms to the soldiers, and men are more eager to take their stand against the foe. For with the knowledge that they are not fighting an aggressive but a defensive war, with consciences free from evil designs, they contribute a courage that is complete; while those who believe an unjust war is displeasing to heaven, because of this very opinion enter the war with fear, even if they are not about to face danger at the hands of the enemy. On this account the general must first announce, by speeches and through embassies, what he wishes to obtain and what he is not willing to concede, in order that it may appear that, because the enemy will not agree to his reasonable demands, it is of necessity, not by his own preference, that he is taking the field." See Gerard Chaliand. Ed. *The Art of War in World History,* (Berekly, Los Angeles, London: University of California Press, 1994)156.

[956]See Gerard, Chaliand. Ed. *The Art of War in World History,* (Berekly, Los Angeles, London: University of California Press, 1994) 215.

[957] See 'Abdulmalik Tha 'ālebī, *Tarikh-e Tha 'ālebī: Ghurar Akhbār Mulūk al-Furs wa Siyarihim,* Mohammad Fazaeli trans. (Tehran: Nashr-e Noqreh, 1990) 333.

Byzantine wars were primarily over control of economic resources; there were few ideological incentives for either party. He also records the fact that neither the Persians nor the Romans cared much about observing their treaties.[958]

The war ethics of Hinduism, according to Nicolle, was superior to the Romans or Greeks in the practice of enslavement. Religion played a vital role in war; for example, the classic symbol of Atharvaveda showed idols being carried into combat.[959] In Hinduism, Nicolle states that, "victory for an individual was, in fact, to die bravely while cowardice was a sin. Not to kill the foe was also a sin, as was begging for mercy or fleeing in disgrace."[960]

Taking into consideration all non-Islamic medieval cultures, Nicolle maintains that Chinese culture formulated and practiced the most humanitarian code of conduct in war. The Confucian Chinese "hated to die violently, as one was thought to retain the appearance at the moment of death through the after-life"[961] Furthermore, according to Nicolle, "the deeply anti-military character of medieval Chinese society led to warfare being seen in terms of profit and loss.... It was better to inflict the least possible damage on the enemy so that there would be greater profit once he was subdued."[962] Chinese heroes "helped the poor and oppressed but paid little attention to the law and did not belong to military elite."[963] According to Toynbee, the Chinese civilization had an anti-war ethics within its ancient roots. He asserts, "In a specific period of ancient China, the

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[958] Procopius, *History of the Wars: The Persian Wars* (Persian), 4th ed., trans. Mohammad Sa'idi (Tehran: Sherkat-e Entesharat-e Elmi, 2003) 67. Note should be taken that ancient Iran had an impressive period (Pax Achaemenis) when war ethics mattered in time of Cyrus the founder of the Achaemenids. As Toynbee mentions, after defeating the Cresus (king of Lidia) in a war (*ca.* 560-546 BC), Cyrus appointed Cresus as his advisor instead of following the standard of the time and burn him alive. See Khosrow Reza'i, trans. *Arnold J. Toynbee's Views on War and Civilization*, 1993, 144.

[959] Nicolle, *Christian Europe and its Neighbors*, 260.

[960] Nicolle, *Christian Europe and its Neighbors*, 260.

[961] Nicolle, *Christian Europe and its Neighbors*, 259-260.

[962] Nicolle, *Christian Europe and its Neighbors*, 23.

[963] Nicolle, *Christian Europe and its Neighbors*, 264.

civilization reached to such a developed level that the military personnel felt shameful if they carried weapons in the public."[964]

Chinese and Islamic Methods of Peacemaking: A Striking Similarity

Not only did medieval Muslims and Chinese maintain high standards of conduct in war but both sought the resolution of conflict on similar grounds. Ury observed:

> Twenty-five hundred years ago during a period of terrible civil war in china, the philosopher Mo Tzu roamed the country with his band of disciples, preaching the virtues of peace and teaching practical techniques for defense. When they heard of an imminent war, they would immediately travel to the place in order to dissuade the parties from fighting. If they found a city already under siege, Mo Tzu would offer his services as Mediator to the warring parties. If the attackers rejected his offer, he and his disciples would take the side of the defenders and fight the battle to a standstill-whereupon he would offer again to mediate a peace settlement.[965]

The above practice demonstrate an awareness that "unresolved conflict escalates because no one is paying *attention* to the conflict or, even if someone is, because no one sets *limits* on fighting, or, lastly because no one intervenes to provide protection."[966] Ury considers the Chinese method of escalating levels of intervention as constructive and sophisticated as it provides the most essential elements for conflict resolution namely, Witness, Referee, and Peacekeeper. This practice is strikingly similar to what is prescribed in the Qur'ān in verse nine of chapter forty nine (*sūrat al-Ḥujurāt*):

> And if two factions among the believers should fight, then make peace between them. But if one of them oppresses the other, then fight against the one who rebels (being intransigent) until it returns to the ordinance of Allāh. And if the latter party complies, then make settlement between them in justice and be fair. Verily, Allāh loves those who always act according to fairness.[967]

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[964] Khosrow Reza'i, trans. *Jang va Tamaddon,* (*Guerre Civilization: Arnold J. Toynbee's Views on War and Civilization,* ed. Albert V. Fowler, (Tehran: Entesharat Elmi va Fargangi, 1993), Edition Gallimard, 1953) 11.

[965] William L. Ury, *The Third Side,* 2nd ed., (New York: Penguin Books, 2000) 169.

[966] William L. Ury, *The Third Side,* 2nd ed., (New York: Penguin Books, 2000) 170.

[967] Translation of the verse from Arabic to English is by the author of this work.

A recent discovery of an important ancient Chinese war manual has revealed further similarities between the Islamic and the Chinese war ethics. This manual that was collected by the military strategist and philosopher Sun Bin (*ca.* 380-316 BC) stresses, for example, against attacks on non-combatant city dwellers. Bin points: "...the best military policy is to attack strategies; the next to attack alliances; the next to attack soldiers; and the worst to assault walled cities..."[968] Bin adds: "It is best to preserve the enemy's state intact; to crush the enemy's state is only a second best."[969] Bin's advices clearly show that the ancient Chinese culture was quite cognizant of the 'just war' criteria as the following phrases reflect:

> The commander must be a man of rightness (*yi*). If he is not a man of rightness, he will not be severe in manner, and if he is not severe in manner, he will not be awesome.[970]...Only civil virtue can bring peace to the empire; only martial virtue can quell disorder in the land...the best strategy is to attack the enemy's reliance upon acuteness of mind; the second is to attack the enemy's claim that he is waging a just war; and the last is to attack the enemy's battle position (*shi*).[971]

As already mentioned the Chinese disliked the mutilation of corpses and because of believing that physical defect will also cause a defective appearance in the next life or resurrection, they avoided physical harm in wars as much as possible. This is comparable with the following Prophetic ḥadīth in Islamic war literature:

> In a tradition of the Prophet reported by Ibn Ḥātam, Muḥammad says: "If one of you fight his brother, let him avoid the face because God created Adam in His own image."[972]

These passages clearly show that notions of 'war as the last resort,' and 'minimal damage,' were well recognized and advised in both the Chinese and the

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[968] D. C. Lau and Roger T. Ames, trans. and eds., *Sun Bin: The Art of Warfare, A Translation of the Classic Chinese Work of Philosophy and Strategy*, (Albany: State University of New York press, 2003) 83.

[969] D. C. Lau and Roger T. Ames, trans. and eds., *Sun Bin*, 2003, 84.

[970] D. C. Lau and Roger T. Ames, trans. and eds., *Sun Bin*, 2003, 160.

[971] D. C. Lau and Roger T. Ames, trans. and eds., *Sun Bin*, 2003, 184.

[972] Moḥaqqiq-Dāmād, (2005) 400.

Muslim cultures and establish a proof that among the classic and medieval cultures both the Muslim and the Chinese war ethics were relatively more advanced than others.

Conclusions

It is always misleading to judge and evaluate a culture out of its historical context. A twenty-first century attitude would condemn medieval slavery; though slavery was a well-established and universal norm in that period. A much more accurate or fairer judgment can be ascertained when moral systems, in theory and practice, are compared within the same historical period.

This comparison, nevertheless, is difficult. For example, it is hard to believe that the ethics of Ibn Ziyād, al-Ḥajjaj and Ṣalāḥ al-Dīn Ayyūbī may all be ascribed to a single system of thought and mores. Ibn Ziyād and Al-Ḥajjāj did not hesitate to massacre their fellow Muslims in unjust wars, whereas Ṣalāḥ al-Dīn was keen to forgive, set free, and even accommodate non-Muslims, though his enemies initiated battle. Clearly the personal characters and the specific perspectives with which these figures chose to interpret Islamic tradition matter as much as Islam itself.

This thesis has tried to examine critically the laws, ethics, and practices of Muslim cultures related to war in a broad comparative framework. In this way, the Islamic ethics of war may along with Chinese ethics be judged superior to those in other medieval cultures. Although medieval Muslims fought among themselves more frequently than against non-Muslims, other cultures have revealed many more ethical failures.

GENERAL CONCLUSIONS

'It is far easier to fight for principles
than to live up to them.'
Unknown source

The philosopher Heraclitus is known to have believed that the entire life is made of war. If this is true, then ethics of war is ethics of the entire life. This work has sought to analyze the justification for and causes of war (*jus ad bellum*) and the methods of conduct in war (*jus in bello*) in Muslim cultures. Its comparative approach focuses on Islamic codes of conduct in the broad context of many other medieval systems, allowing us to scrutinize these developments from a wider perspective.

The work reviews the thought of important medieval Islamic theologians, philosophers, mystics, ethicists, historians, and other men of letters. The main argument among these thinkers, especially between the Mu'tazilites, and their theological opposition, the Ash'arites, was whether ethics and moral values could be objectified or whether it was, in essence, a matter of subjective speculation based on the sacred text. The Mu'tazilite emphasis on 'justice' as a universally and trans-culturally discernible objective virtue, to which even God is supposed to conform, by implication, restricts the authority of jurists and political leaders in deciding matters of justice, war and peace. This controversy parallels the debate in the West over the concept of objective ethics.

The Kantian emphasis on individual freedom and self-autonomy as the most important moral virtue and legal right in Western society makes it more difficult for a despotic or even a democratic system to coerce an individual into war. This principle is not elaborated with any clarity in Islamic writings. Nevertheless, the focus on self-purification and individual salvation in the Ṣūfī esoteric world-view, as propounded by thinkers such as al-Ghazālī, al-Anṣārī and Rūmī, often implies the rejection of exoteric wars fought to achieve worldly goals or even perhaps higher ideals like faith. Rūmī's aphorism (that if one is for war, the real battlefield is within one's soul) directs combat to the metaphysical realm.

Respect for the individual is not limited to Ṣūfism in Islam. Rostam, the epic hero of Ferdowsī, chooses to face the most tragic of all his battles by rejecting a request from another heroic figure in the *Shahnameh*, Esfandiyār. The request would have taken

away his personal dignity and honor. Ferdowsī defies the king's request for personal dignity. This code of ethics restricts the power of the head of the state to wage a war on his arbitrary whims. The scorn Ferdowsī heaps on Key Kavus for his irresponsible military decisions aside, he frequently reminds his reader of how closely related the soldiers are on the two sides of an impending battle. Ferdowsī never misses to praise heroic acts on the enemy side. Even if the enemy's cause of war is unjust, the good manners of the warriors on the opposite side have to be registered and appreciated. Here Ferdowsī comes very close to a distinction expressed about eight centuries later by Rousseau between the state and the individual and that many individual combatants might be quite accidentally on the one or the other side of the battle. *Adab* literature, in general, emphasizes the virtue not of what one does but of how one does it. Form in this genre proves to be as important as content. This view diminishes or destroyes the value of victory in war at any cost.

Wars often lead to sheer crime on both sides of the battle. But the right form of fighting and a just cause for it may transform the war theatre into scenes where magnanimity and compassion reach their climax. Ṣalāḥ al-Dīn Ayyūbī spent most of his days on the battlefield. Yet because of his conduct in those battles, he earned the designation of "the most chivalrous sultan." He demonstrated as much courage and resolve in battle as he did grace and respect toward his enemy, or ideological others. From this perspective, he followed 'Alī's just war philosophy. He was praised not only by friends, but by his Crusader foes. On the other hand, Khālid Ibn al-Walīd gained the epithet of 'Islam's sword,' yet, was rebuked for his breach of humanitarian war ethics, not only by his foes but by Prophet Muḥammad and his Muslim comrades.

The root cause of such ruthlessness must be sought in the character and personal dispositions of specific soldiers rather than Islam. Similarly, the first four caliphs' attitudes towards 'others' changed little before and after they become caliphs.

It was no surprise that 'Umar Ibn al-Khaṭṭāb, the most militant of all the first four caliphs, was the most successful conqueror among them. After him, 'Alī Ibn Abī Ṭālib, who had not played any role in campaigns outside the Arabian peninsula, was embroiled in domestic wars. In reality 'Alī's wars were wars within the Islamic self, an outward manifestation of what, centuries later, Rūmī called for, in a mystical arena.

'Alī was the epitome of a mystic and a symbol of Islamic chivalry, largely due to his conduct rather than his lineage or honorary position (as the first Muslim convert, and the Prophet's cousin, son-in-law, and formal heir).

The Persian army, appalled by the corruption that prevailed at the end of the Sasanid era, voluntarily deserted the Sasanid dynasty and converted to Islam. These warriors, named *Asvārān,* followed transcultural and universal norms of ethics that agreed with Islamic tenets. The pro-Arab bias of the Umayyads, however, recast these norms as *futūwa* associations. The caliph al-Nasir reformed these associations in the late twelfth, early thirteenth century CE. They continued, nevertheless, to uphold universal ethical principles in whatever institutions they appeared.

The episodes of Karbalā' and Siffin profoundly shaped Shī'ī war ethics and literatures. These ethics, however, were transmitted to later generations not essentially by juridical works but by informal epic literatures and associations such as *javānmardān* and *'ayyārān.* The Karbalā' tragedy redefined the notions of 'self' and 'other' for the Shī'ī community and convinced them to rely more on the human-reasoned and natural sense of justice than the concept defined by sheer political interests of the rulers.

The medieval history of Muslim cultures marks the remarkably moral conduct of a number of dynasties such as the Samanids, Buyids and Ayyubids, but also bears witness to atrocities perpetrated by other medieval Muslim rulers. The overall record, however, stands co-equal to that of the Chinese whom Nicolle regards as the most ethical, as measured by a universal and objective standard.

Islamic ethical standards in war provided a historic moral shift compared with pre-Islamic norms and practices and proved influential on other cultures. Western institutions recognized and emulated the ethics of respected Islamic associations and figures such as *futūwa,* and Salāh al-Dīn Ayyūbī. This remolded the values of European chivalry during and after the Crusades instilling respect for enemy and romance for women. Subsequently, Islamic scholarship has gradually fallen behind Western literature on the ethics of war, although it initiated the original concept a few centuries earlier. Jurists lost touch with everyday life and politics. They also claimed comprehensive knowledge of all truth. This attitude gradually led to the freezing of Islamic philosophical tradition that in its peak laid the foundation of the European Renaissance.

So was the fate of ethics as a philosophical discipline. The loss of the tradition of *ijtihād* exacerbated the situation, and the divorce between law and ethics deprived Islamic jurisprudence from a critical soul.

Modern Shīʿī jurists are presently engaged in an ongoing critique of their predecessors, re-examining scholarship back to the eleventh century CE and before and questioning the introduction of juridical concepts that they adopted from other Islamic schools without much scrutiny and critique. Ṭabāṭabāʾī denounces the early Muslim conquest wars and finds them damaging to Islam's real spiritual mission. Ṣāliḥī-Najafābādī, Iskandarī, Moḥaqqiq-Dāmād and Kadīvar exercise *ijtihād* in full force to revisit, criticize, deconstruct, morally overhaul and reform the traditional understanding of laws of war in Islam in full coherence and accordance with the Qurʾānic morals and the Prophetic manners. Moḥaqqiq-Dāmād demonstrates that the views of the Muslim jurist majority, comprising most of the traditional Sunnī and the Shīʿī legal schools, may easily and fully embrace the most advanced international humanitarian laws of war and help it even further. Like Toynbee, he points that the more the body of international law finds religious roots, the better for its universal influence and solidity. Some of the modern scholars of Islamic law, ethics, and Qurʾānic exegesis are keen to remind their colleagues that the traditional body of legal norms requires fresh perspectives to meet the needs of the contemporary world.

Present endeavors on the part of Muslim scholars to theorize new ethics of war in Islam need not necessarily emulate other traditions. Fertile sources exist not only in the works of great Muslim jurists like al-Shaybānī or Shaykh Ṭūsī but also of philosophers like Ibn Sīnā and al-Fārābī, moralists like Ibn Miskawayh and Ṭūsī, Ṣūfī intellectuals like Ibn al-ʿArabī and Rūmī, theologists like the Muʿtazilī Qāḍī ʿAbduʾl Jabbār, and poets like Ferdowsī and Saʿdī.

Ibn Sīnā defines love as the primary fuel of creation and therefore envisions an essentially peaceful world. Al-Fārābī conceives of multiple states and thus recognizes the basic principle of international relations today. Ibn Miskawayh's sense of intimacy (*uns*) is a universal principle of society. To Ṭūsī may be attributed the humility of the ruler toward his people; to Ibn al-ʿArabī, the possibility of religious pluralism; to al-Ghazālī the view of the 'self' as the ultimate battlefield; and to Rūmī a criticism of

futile efforts to look at war as an opportunity of a short-cut flight to paradise. Finally, in Mu'tazilī thought, one finds the objectivity and universality of all ethics, particularly justice.

Critical analysis of the classical Qur'ānic commentaries and new approaches to the Qur'ān from an ethical perspective reveal that the main, if not the only, cause of early inter-faith and intra-faith wars in Arabia under Islam was breach of contracts. The highly ethical and contractual nature of the Qur'ānic approach to human relations refutes the artificial juridical division of the world into the two realms of the abode of peace and the abode of war (*dār al-Islām* and *dār al-ḥarb*). The idea of a permanent war between these two worlds was rather an invention serving expansionist rulers who cared much more about personal power and wealth than about the improvement of societal morality in the world.

In studying the ethics of war, it became apparent how a substantial part of the original Islamic ideals were gradually corrupted or set aside by despotic rulers, voluntarist ideologues and obscurantist jurists. However, the Qur'ānic moral code of mercy and the profound humanism deeply rooted in the primary sources and practices of Islam, as well as in the rational and moral nature (*fiṭra*) of man, survived and maintained its vitality in philosophy, *adab* literature, non-governmental institutions and associations, and personal codes of conduct. It is these latter parts of Islamic tradition which may prove instrumental in reviving the intellectual life of modern Muslim societies.

Just like slavery that was once a mode of economy recognized by the entire medieval world (including the Muslim world), but then gradually eliminated partially thanks to many humanitarian provisions developed within the progressive Islamic jurisprudence, expansionist war has also been a mode of economy, unfortunately still in use. It is the common aspiration of mankind that war too should be eliminated even as a means of defense. The Qur'ānic verse Q.5:32, that refers to the identical proclamation in the Old Testament testifies that in God's arithmetic, human beings may not be counted as numbers, and that killing one innocent person is tantamount to murdering all mankind. This stands in the face, and reveals the crime, not only of soldiers that attack civilians by weapons of mass destruction, but of suicide bombers who use conventional

weapons as well. They also commit a crime against an essential element of mankind's intellectual heritage, namely the laws and ethics of war, developed during many centuries of deliberations by the Muslim and Western humanists.

On the basis of the overall responses of various Muslim cultures to the question of war, its causes, qualities and the moral lessons these cultures have received from their past, this thesis has suggested three theories of just war in Islam namely: Just-Defense (accepting the ideological and political plurality in the world order and justifying only defensive wars), Moral-Interventionism (accepting a pluralistic but free world order and justifying moral corrective and liberating wars), and Total-Islamization (rejecting pluralistic political and ideological order and justifying expansionist wars). These theories that address the three main intellectual and actual trends of just war in Muslim cultures differ mostly about the causes and ends of war rather than its qualities and methods. This is a testimony that in Islam, ends do not justify means and that the Islamic concept of damage and pain inflicted upon men in wars is impressed by qualitative rather than quantitative criteria. It also confirms that the implementation and the execution of *shari'a* law has no value in itself except in serving the moral goals inherent in the law.

War as a measure of retaliation-in-kind, according to the Qur'ān, is only the last resort or morally speaking the least preferred measure by the Scripture. Above this measure, the Scripture introduces two more preferred reactions: Material compensation (*diya*) and, at the most preferred level, forgiveness (*'afw*). Fortunately, formal apologizing in international relations has become a practice although not as a predominant norm of reaction. Islam however, by giving a very high value to forgiveness in conflict, supports the institutionalization of this norm at all the individual and collective levels. This realm contains enough theoretical ingredients for an ultimate pacifist theory in Islam which does not embrace a cult of victimization but promotes and provokes a sense of humanism that exists in the nature of all humans (*fitra*) including the belligerent side in any conflict.

It is important to note that, as the colonial and the post-colonial intellectual reactions of the Muslim theorists of war to the predicaments and calamities of their constituencies are gradually shifting towards a more contemplative position in modern

times, their positions on wars are also shifting from more aggressive theories towards soft and essentially non-confrontational theories. This is not a submission to the Marxist theory that thoughts are merely conditioned by social and economic factors. It only points to the fact that these intellectuals are becoming more active in their thoughts than reactive and more prone to critical thinking than to accepting the Islamic medieval literature in a wholesale manner. Between Rashid Riḍā and Ṣāliḥī-Najafābādī, there is indeed a century of very impressive and promising intellectual progress.

If modern man has not yet matured enough to eliminate war altogether, and inscribe in his mind that, as Toynbee concluded, militarism has been the most important common cause of the downfall of twenty civilizations so far,[973] he should at least be conscious that his behavior in war will continue to be the ultimate test of any moral system he claims to abide by and sell to the world. It was the improvement of this very morality that all religions and prophets claimed and sought. Therefore, acting viciously and in an evil manner in the name of a 'faith' or 'democratic values' is but a perfectly destructive and foolish oxymoron, which will not reward any with an improved life here or hereafter. An Islamic proverbial ḥadīth states, "the mundane world is the cultivation farm for hereafter (*ad-dunyā mazra'atu'l ākhira*)." This is a clear testimony that seeds of fire and fighting may not bear flowers of peace and democracy, nor will it provide tickets for shortcut flights to *Firdows* (paradise).

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[973] Reza'i, Khosrow. Trans. *Arnold J. Toynbee's Views on War and Civilization*, (1993) 125.

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306

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