



THE LEGAL STATUS OF PRISONERS IN ISLAMIC LAW AND THEIR LEGAL PROTECTION (PART 1)

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Article history:	Abstract:
Received: 20 th February 2025 Accepted: 14 th March 2025	This article explores the legal status of prisoners in Islamic law and their legal protection. It discusses the principles of war and peace in Islam, emphasizing justice, fairness, and the prohibition of indiscriminate violence. The study delves into key Islamic legal concepts such as jihad, war ethics, and the treatment of prisoners. It also examines treaties, military operations, the protection of civilians, and the role of the state in regulating war-related matters. References from the Qur'an, hadiths, and classical Islamic juristic texts provide a comprehensive view of how Islamic law governs wartime conduct and the rights of prisoners.

Keywords: Islamic law, prisoners, war ethics, jihad, peace treaties, military operations, war regulations, human rights, Qur'an, hadith, Islamic jurisprudence, international relations, justice, war crimes, non-combatants, war prisoners, Islamic governance, enemy treatment, humanitarian law, Islamic state.

In Islamic law, the primary issue of international relations has been the matters of war and peace, which have received special attention. On these topics, the Qur'an contains numerous verses, and there are dozens of hadiths from the Prophet Muhammad. No legal scholar who has addressed issues related to international relations has avoided these matters.

Firstly, inviting people to Islam was not an easy task for scholars and jurists. Even in the early stages of the expansion of Islam, the call faced severe resistance. Secondly, the spread of Islam in the Arabian Peninsula, particularly in its eastern and western regions, encountered significant opposition from tribes, communities, and peoples adhering to other religions.

Thirdly, history bears witness to numerous uprisings by the populations of territories brought under the rule of the Caliphate and Arab dominance. Fourthly, conflicts arose between the ruling Arab elites and representatives of local dynasties, as well as national liberation movements conducted by local peoples striving to restore their independent statehood, which led to the emergence of several independent states that seceded from the Caliphate.

Fifthly, there were conflicts and contradictions between tribes, clans, and communities within the Arab Caliphate, between followers of Islam and adherents of other religions, and between Muslims and those who did not profess any religion, as well as between the Muslim community and other religious groups.

In general, no religion advocates for war; rather, all religions are supporters of peace. In this regard, it would not be an exaggeration to say that Islam occupies a leading position. In the Qur'an, **Surah**

Al-Anfal (8:61) states: "If they incline toward peace, then you too incline toward it".

Additionally, the Qur'an condemns actions aimed at provoking or exacerbating conflicts among religious communities, peoples, and nations. It prohibits activities that establish the dominance of one group over another, oppress others, or violate agreements based on peace and harmony. Such actions are considered grave crimes, and those who commit them are held accountable both in this world and in the Hereafter.

This is stated in **Surah An-Nahl (16:90-93)**: "Indeed, Allah commands justice, good conduct, and giving to relatives and forbids immorality, bad conduct, and oppression. He admonishes you that perhaps you will be reminded". "Fulfill the covenant of Allah when you have taken it, and do not break oaths after their confirmation while you have made Allah a witness over you. Indeed, Allah knows what you do".

"And do not be like the woman who untwisted her spun thread after it was strong by taking your oaths as means of deceit between you because one community is more numerous than another. Allah only tests you thereby. And He will surely make clear to you on the Day of Resurrection that over which you used to differ".

"If Allah had willed, He could have made you one nation, but He causes to stray whom He wills and guides whom He wills. And you will surely be questioned about what you used to do".

In **Surah Al-Qasas (28:83)**, it is emphasized: "That home of the Hereafter We assign to those who do



not desire exaltedness upon the earth or corruption. And the best outcome is for the righteous”.

In Islamic law, any form of oppression is considered a grave sin and a severe crime, and those who commit such acts are not forgiven. In terms of punishment, no leniency is granted to such individuals. This is stated in the Qur’an, **Surah An-Nahl (16:85)**: “When the wrongdoers see the punishment, it will not be lightened for them, nor will they be given respite”.

In **Surah Ash-Shura (42:42)**, it is emphasized: “The blame is only against those who wrong people and tyrannize upon the earth without right. For them is a painful punishment”.

Additionally, a hadith narrated by Abu Dawood states that Prophet Muhammad (peace be upon him) said: “Whoever oppresses a person with whom a treaty has been made, or infringes upon their rights, or burdens them beyond their capacity, or takes something from them without their consent, I will be their advocate against such a person on the Day of Resurrection”.

Islamic law supports living peacefully and harmoniously with neutral states, nations, religious communities, and non-Muslims who do not show hostility towards Islam and the Muslim community. It promotes refraining from enmity, avoiding aggression, maintaining justice, and practicing kindness.

This is reflected in **Surah An-Nisa (4:90)**: “Except for those who take refuge with a people between yourselves and whom is a treaty or those who come to you with hearts strained at the prospect of fighting you or fighting their own people. And if Allah had willed, He could have given them power over you, and they would have fought you. So if they remove themselves from you and do not fight you and offer you peace, then Allah has not made for you a cause for war against them”.

Similarly, in **Surah Al-Mumtahanah (60:8)**: “Allah 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, Allah loves those who act justly”.

In **Surah Al-Anfal (8:72)**, it is stated: “Except when there is a treaty between you and them; Allah is Seeing of what you do”.

Islam promotes trust, goodness, dialogue, negotiation, and cooperation among individuals, nations, and peoples. This is expressed in the Qur’an, **Surah Al-Hujurat (49:13)**: “O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is

the most righteous of you. Indeed, Allah is Knowing and Acquainted”.

In **Surah Aal-e-Imran (3:64)**, it is stated: “Say (O Muhammad), O People of the Scripture, come to a word that is equitable between us and you – that we will not worship except Allah and not associate anything with Him and not take one another as lords instead of Allah. But if they turn away, then say, Bear witness that we are Muslims [submitting to Him]”.

In **Surah Al-Ankabut (29:46)**, it is stated: “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”.

In **Surah Al-Mumtahanah (60:8)**, it is stated: “Allah 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, Allah loves those who act justly”.

In **Surah Al-Ma'idah (5:8)**, it is stated: “O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is Acquainted with what you do”.

In **Surah Al-Ma'idah (5:72)**, it is stated: “But if they (the Muslims) ask you for help in religion, then you must help, except against a people with whom you have a treaty. And Allah is Seeing of what you do”.

Islamic law emphasizes the idea of strengthening friendly relations among all people regardless of their origin, language, skin color, or culture. This is reflected in **Surah Al-Anfal (8:73)**: “The disbelievers are allies of one another. If you do not do the same, there will be fitnah (tribulation) and great corruption on earth”.

According to the commentary on the last part of this verse:

“If you, O Muslims, do not take your brothers in faith as allies, the earth will witness unrest instead of peace, leading to mischief and chaos. If Muslims do not uphold monotheism and oppose disbelief, atheism will prevail, resulting in widespread disorder and corruption”.

Differences, conflicts, and disputes among people may arise from religious beliefs or worldviews. However, this does not negate the concept of broad friendship among people.

In Islamic law, chauvinism, disdainful attitudes of one nation or tribe towards another, and acts of mocking or belittling one another are strictly prohibited.



In the Qur'an, **Surah Al-Hujurat (49:11)** states: "O you who have believed, let not a people ridicule [another] people; perhaps they may be better than them".

In Islamic law, matters related to war, its objectives, the formal declaration of its commencement, methods and means of conducting and managing it, treatment of civilians who are directly or indirectly involved in supporting the war, and issues surrounding the termination of war, the establishment of peace treaties, adherence to or violations of such treaties, the legal status of occupied territories and their populations, prisoners of war, captured spoils, and their fate are given significant attention.

Before discussing the essence of the norms of Islamic law regulating relations connected to war, it is necessary to clarify certain issues. In the Arabic language, the term "qital" is used to express the concept of "war", as represented in the Uzbek term "urush".

In the Uzbek translation of the Qur'an, the term "war" is used in this context. It should also be noted that the scientific definition of war has been a subject of debate in the past and continues to be so in the present. Definitions of war vary. According to the authors of the textbook "Modern International Law", until the 20th century, war was understood as a conflict resolved through the battle of two armies on the battlefield.

In the Philosophical Encyclopedia Dictionary, war and its types are explained in detail. In this context, we found it necessary to present this explanation as fully as possible. The dictionary notes that war is a combination of various forms of armed struggle and the internal outcome of states' activities. The causes of wars vary depending on their specific nature and the period in which they occur. Not every bloody conflict can be considered a war; rather, war involves premeditated military actions conducted for conquest or the struggle for freedom.

Wars can be classified based on their general similarities as follows:

1. World Wars;
2. Local Wars;
3. Civil Wars;
4. National Liberation Wars.

Among all types of wars, only national liberation wars do not possess a character of aggression. Such wars are waged to liberate a country from colonial oppression. Regardless of the type of war, they are either just or unjust. Just wars negatively affect the

social, political, economic, and spiritual life of a society during the period of warfare. However, the positive impact of such wars on the development of society becomes evident upon their victory. Humanity has always condemned unjust wars, and this final statement is fully applicable to Islam.

The second issue is the concept of jihad, its meaning, purpose, types, and interpretation in Islamic jurisprudence. The word jihad in Arabic means to strive or to exert effort. The understanding of jihad and its application have been interpreted differently throughout Islamic history. Initially, jihad was understood as efforts to protect and spread Islam. Regarding this struggle, the Qur'an contains various instructions based on the specific conditions of the life and activities of Prophet Muhammad (peace be upon him) in Mecca and Medina:

1. Avoiding conflict with polytheists and inviting them to the true religion through wisdom and good conduct;
2. Conducting defensive wars against the enemies of Islam;
3. Attacking non-believers but refraining from military actions during sacred months;
4. Waging struggles against them at any time and place.

The term jihad in the dictionary does not mean war; for this, the Arabic word qital is used. Over time, with changing circumstances, the types of jihad expanded based on the lexical meaning of the term. However, it should be specifically noted that according to experts, in Islam, the initial meaning of jihad was not war but inviting people to Allah's religion through words.

The word jihad is a comprehensive concept that includes striving not to succumb to one's desires, overcoming them, and living in accordance with Sharia law. It also encompasses efforts such as speaking the truth in the right place, children honoring their parents, and similar acts. Prophet Muhammad (peace be upon him) is reported to have described the types of jihad as follows:

1. Commanding what is right (amr bil ma'ruf);
2. Forbidding what is wrong (nahi anil munkar);
3. Speaking the truth even if it is against oneself;
4. Bearing patiently with the ridicule of a sinful person.¹

In Mukhtasar, it is written that jihad in its linguistic meaning refers to exerting all one's strength,

¹ Минг бир хадис. Абдулазиз Мансуров таржимаси. - П.379./электрон ресурс



i.e., making an effort (ijtihad). In the terminology of Sharia, it means waging war with all one's strength and power against disbelievers and enemies if they attack. Jihad becomes an individual obligation (fard ayn) for every capable person who possesses weapons, provisions, and a riding animal when disbelievers attack the lands of Islam. In such a situation, it is permissible for women to participate in the defense of the homeland without their husband's permission and for slaves without their master's consent.

If jihad is conducted for purposes other than repelling an attack from disbelievers, participation in the war becomes a communal obligation (fard kifaya). In such a war, if a group from the Muslim community participates, the obligation is lifted from the rest of the Muslims. However, if no one participates, all Muslims bear the sin. Such wars may be conducted if the dhimmis or other adherents of different religions violate agreements made with Muslims, fail to pay prescribed taxes, or collectively refuse to submit to the authority of the state.

In communal obligation (fard kifaya) wars, it is not obligatory for young children, women, slaves, the blind, or those whose hands or legs have been amputated to participate. However, if the war is an individual obligation (fard ayn), participation becomes mandatory for women and slaves. Both fard ayn and fard kifaya apply exclusively to Muslims.²

According to Islamic scholars, "During the first thirteen years of Islam, Prophet Muhammad (peace be upon him) and his companions in Mecca carried out a form of jihad that did not involve warfare". At that time, Allah had forbidden Muslims from using force against the polytheists. Instead, they were commanded to endure the suffering and persecution inflicted upon them with patience. It was only in the second year of Hijrah (624 CE) that, as stated in the Qur'an, "Permission [to fight] has been given to those who are being fought because they were wronged".

Furthermore, when discussing jihad, it is important to note that "The ruling of jihad in Islam changes depending on circumstances. Jihad, which is undertaken to eliminate oppression in the world and establish the supremacy of Allah's religion, is considered a communal obligation (fard kifaya)".

This includes spreading Islam globally and removing obstacles in the path of Allah's religion. However, those who do not obstruct Islam are free to follow their own religion and practices. If enemies

invade a Muslim land and declare war, jihad becomes an individual obligation (fard ayn) for all Muslims.

Additionally, it should be noted that in the past, certain political forces and groups adopted the practice of interpreting jihad as "holy war". In Turkey, the Caucasus, and Central Asia, jihad was also widely known as ghazawat. Starting from the 19th and 20th centuries, jihad was imbued with new meanings, including the concept of self-perfection in the way of Allah (spiritual jihad). The ideas of four types of jihad - the jihad of the sword, the heart, the hand, and the tongue - were further developed.

In the 20th century, during the era of national liberation movements against Western imperialist colonial policies in Muslim countries, the concept of jihad was used as a tool to combat colonialism.

As noted in the work *Fawaid-i Khaqaniyya* (Benefits for the Khaqan) by our compatriot Muhammad Sharif al-Bukhari, who lived and wrote in the 17th century:

"Jihad is a communal obligation (kifaya). If some members of the Muslim community perform jihad on behalf of others, the obligation is lifted from the rest. However, if everyone neglects it, they all become sinful. This is similar to the collective obligation of the funeral prayer and responding to greetings".³

However, the author proposes the idea that under certain circumstances—such as the need to defend the homeland from an enemy attack—jihad can become an individual obligation (fard ayn). He states:

"However, if disbelievers attack and invade the Muslim community, and the Muslims are unable to repel the attack, then jihad becomes fard ayn for everyone. All Muslims in both the East and the West who are near the attacked Muslim community are also obligated to undertake jihad as fard ayn. If Muslims living close to the affected Muslim community fail to assist them, all of them will be equally sinful. This, however, is conditional upon the news of the attack reaching them, and if they refuse to provide assistance after receiving the news".⁴

By the end of the 20th century and the beginning of the 21st century, Muslim theorists defined jihad as a means of spreading Islam peacefully, defending it from external pressure, and mobilizing the efforts and strength of Muslims. According to the beliefs of moderate Islam (Ahl al-Sunnah wa al-Jama'ah), "lesser jihad" refers to the struggle of every Muslim believer against their own desires, and their efforts

² Мухтасар: (Шариат қонунларига қисқача шарҳ). Т.: "Ўзгир" -1994.-Б.294. Қаранг: Ўша асар, Б.294-295.

³ Мухаммад Шариф ал-Бухорий. Фавоиди хоқониййа (Ҳоконга аталган "Адолат",-1995.-Б.12

⁴ Ўша асар, Б.13.



toward spiritual perfection are considered the "greater jihad".

Currently, on the international stage, terrorists disguising themselves under the name of Islam exploit jihad for their own benefit. They interpret jihad solely as a means of waging war and seizing power.

The third issue concerns Islam's stance on war. Islam opposes unjust, aggressive, and predatory wars, as well as wars aimed at subjugating one nation or state to another, seizing land and resources, or enslaving populations. From an Islamic perspective, war is permissible for self-defense, to eliminate injustice, or to counter aggression. It is important to note that in Islam, war is not considered the sole means of resolving international disputes and conflicts. Islam advocates for resolving such issues through peaceful means. Only if peaceful methods fail can war be considered as a last resort.

The fourth issue pertains to declaring, initiating, conducting, and concluding war, as well as establishing peace treaties and their consequences. In the sources of Islamic law and the works of Muslim jurists dedicated to interpreting these issues, the causes of war, its objectives, the nature of wars, and their classification (such as just and unjust wars, aggressive wars, predatory wars, defensive wars, and wars for restoring state independence) are detailed. This also includes conflicts within a country among different tribes, peoples, ethnic groups, and communities, methods for resolving disputes and conflicts peacefully, conditions under which war becomes necessary, procedures for declaring and initiating war, conducting military operations, concluding peace treaties, adhering to their terms, and the consequences of violating them.

The fifth issue is related to those who directly participate in military operations and those who assist them. According to Islamic law, every citizen of an Islamic state is obligated to defend the homeland from enemy attacks. This is considered the duty of all citizens. However, Islamic law recognizes that not everyone is capable of fulfilling this obligation. Only citizens who are capable of fighting, based on their age, strength, health, mental state, physical and military preparedness, are required to participate in war.

Exemptions are made for minors, those with mental disabilities, the elderly, women, the sick, the physically disabled, servants, those without weapons, individuals whose parents or guardians do not consent to their participation, and debtors who have not obtained the consent of their principal creditor in the

city. Participants in military operations include professional soldiers, civilian militias, and support personnel such as medical workers, those involved in food supply, and weapons repair specialists. Their legal status, social protection, and the responsibilities of the state toward the children and other relatives of those killed or injured in war are also addressed in Islamic law.

The sixth issue pertains to the methods of conducting military operations, as well as matters of military tactics. These issues have not been overlooked in Islam.

According to Islamic law, military operations may only target combatants, those who assist them in any way, those who provide moral or material support to the military, and military objects. If individuals have no involvement in or support for military operations, acts of war cannot be directed against children, women, the disabled, the elderly, or civilian objects. This is detailed in the works of various jurists.

For instance, Muhammad Sharif al-Bukhari writes: "If among the enemy combatants (disbelievers), there is a woman, a child, an elderly person who remains in their place, or someone whose hand or leg has been severed, or if there is a person who has remained in their place but is not elderly, the Islamic army does not kill such individuals. However, if it becomes known that they have intentions of fighting, then they may be killed".⁵

In Islamic law, the placement of Muslim military units in areas where hostilities are taking place and their relations with the local population are regulated by strict rules. For instance, in the Covenant sent by Umar ibn al-Khattab to Sa'd ibn Abi Waqqas, who was appointed as commander in the battle against the Persians, the following instructions were given:

"Place the accommodations of the Muslim soldiers away from the cities and villages of the people of peace (ahl al-sulh) and the dhimmis. Only those among your men whom you trust should enter those areas, and ensure that no one harms their people. They have their dignity and rights, and you are obligated to honor those. As long as they remain patient, maintain good intentions toward them. Do not aid the enemies in a state of war by oppressing the people of peace".

The Covenant also provides instructions on how Muslim troops should conduct themselves and adhere to rules upon entering enemy territory, as well as the tactics the commander should employ:

"When you step into enemy territory, keep your eyes vigilant between yourself and them. Do not let

⁵ Мухаммад Шариф ал-Бухорий. фойдалар). Т.: "Адолат", -1995.-Б.14-15.



their affairs be hidden from you. Have with you people you trust in their advice and loyalty, whether Arabs or locals of that area. A liar's occasional truthfulness will not benefit you. When nearing enemy territory, increase the number of small fighting groups and scouts between yourself and them. The fighting groups will cut off their aid and supplies, while the scouts will learn their secrets. Select intelligent and strong individuals from your men as scouts and provide them with swift horses. If they encounter the enemy, they will demonstrate strength. Assign to the fighting groups people of patience and experience in war. Do not place individuals who are driven by their desires and who might compromise your plans and objectives. Never send fighting groups or scouts to the side of your forces that is fearful of loss, injury, or strikes".

Islamic law also addresses the issue of gathering information about the enemy's military, physical, and psychological readiness by sending spies to the enemy's side. In the Covenant mentioned above, instructions are given on becoming familiar with the enemy's secrets, thoroughly studying their weaknesses, and focusing efforts before initiating combat to strike at their vulnerabilities effectively:

"When you see the enemy with your own eyes, gather the people from your fighting and scout groups around you. Concentrate your strategies and strength. Do not rush into confrontation with the enemy unless forced by circumstances. Learn the land as thoroughly as you learn its people. Respond to the enemy in kind for whatever they do to you. Then, keep your soldiers vigilant. With all your means, prepare to guard against a sudden attack. Remain alert..."⁶

In Islamic law, the methods permissible or impermissible during military operations, the use of deception and diversion tactics against the enemy, the treatment of those who surrender, lay down their weapons, desert from the enemy's military ranks, defect to the Muslim side and offer assistance, or convert to Islam during the war are all regulated accordingly.

As previously mentioned, Islamic law views war negatively. From an Islamic perspective, war is only used as a last resort when international disputes cannot be resolved through peaceful means. It is essential to note that, according to Islamic teachings, the purpose of war is not to conquer foreign lands, plunder resources, enslave free individuals, or exploit other nations, tribes, or peoples. Such wars are prohibited in Islamic law, and those who conduct them are to be

subjected to the harshest punishments. In the early Islamic period, the objective of military campaigns in neighboring regions was to invite their populations to Islam and spread Islam in those areas.

Islamic law also gives significant attention to issues such as Muslim efforts to spread Islam among non-Muslims, conducting campaigns in Dar al-Harb (the territory of war), interactions with its inhabitants, and the procedures for inviting non-Muslims to Islam. Islamic scholars have expressed their views on these matters. For example, Muhammad Sharif al-Bukhari writes:

"If the Muslim king spreads his influence over the people, descends upon the battlefield with his victorious army, and embarks on jihad for the sake of his state and glory, it is obligatory for His Majesty (the king) to first invite the enemy to Islam and guide them to the religion of Islam. This is so that the people understand that His Majesty's arrival is for the purpose of promoting and elevating the religion of Islam, not for acquiring wealth or enslaving their women and children. If the non-Muslims accept Islam, their lives will not be harmed".⁷ Muhammad Sharif al-Bukhari continues to write: "If the enemy combatants, after being guided by His Majesty the Muslim king, embrace the honor of Islam, their blood will not be spilled, and their wealth will not be taken. The act of inviting them to guidance by His Majesty, particularly when it leads to their embracing the honor of Islam, brings great reward to the Muslim king". Regarding the consequences if non-Muslims refuse to accept Islam and the measures to be taken by the Muslim king, the scholars state the following: "If, after being guided to the path of Islam, they refuse to accept Islam, this community is then invited to pay the jizya (poll tax). If they also refuse to pay the jizya, His Majesty the Muslim king seeks the help of Almighty Allah and engages in war and battle against this community".⁸

The author of Fawaid-i Khaqaniyya continues to emphasize:

"If one of the lands under the control of disbelievers comes under the control of the Muslims, His Majesty, the Muslim ruler, has the option to either show wrath and victory or leave the land in the hands of the disbelievers, free the people, impose a land tax (kharaj), or distribute the land among the Muslims without killing the disbelievers and instead enslave them. This ruling, however, does not apply to Mecca and its people. When the Prophet (peace be upon him) conquered Mecca with

⁶ Кўчирмалар олинди: Шайх Муҳаммад Содиқ Муҳаммад Юсуф. Ҳадис ва Ҳаёт. Абу Бакр ва Умар розияллоху анхумо... Б. 237-238.

⁷ Муҳаммад Шариф ал-Бухорий. Фавоиди ҳокониййа (Ҳоконга аталган фойдалар). Т.: "Адолат",-1995.- Б.12.

⁸ Ўша асар. Б.14.



wrath and victory, he left the land in the possession of its people and did not impose any kharaj. Furthermore, no one from the people of Mecca was enslaved and given to any Muslim. This was due to the honor of Mecca and its people”.

The author further explains that if Dar al-Harb (enemy territory) is conquered through wrath and victory and the Muslim ruler decides not to return the land to the disbelievers but distributes it among the Muslims who conquered it, such land is considered ushr land. Similarly, if the inhabitants of the land of war voluntarily embrace Islam, their lands also become ushr land. Thus, as stated in some texts, the lands of Bukhara are considered kharaj lands, except for the land of Tali Marasan. The land of Tali Marasan is classified as ushr because its inhabitants voluntarily embraced Islam. In contrast, Bukhara was conquered with wrath and victory, and its lands were given to its people while a kharaj tax was imposed on them.

These revenues are allocated for the benefit and affairs of the Muslim community, such as constructing bridges over rivers and canals to prevent disbelievers from entering Dar al-Islam. Additionally, these funds are used to support the Muslim ruler, his subordinates, those prepared for battle against disbelievers, commentators, hadith scholars, jurists, students of Sharia sciences, judges, market inspectors (muhtasib), descendants of the Prophet (sadaat), imams, muezzins, and others who dedicate their lives to serving the Muslim community and are entitled to receive allowances.

In Islamic law, Muslims may only engage in war to eliminate injustice, defend themselves, or repel aggression. Such wars must be conducted based on strict regulations:

1. **Muslims must never initiate hostilities.** A counterattack is permissible only after the enemy has launched an attack.
2. **All wars conducted by Muslims must be carried out under the command of the head of state.**
3. **The commencement of war must be officially declared by a military judge on behalf of the head of state.**
4. **Military operations involve regular armed forces, civilian militias, and auxiliary personnel, such as medical workers and those responsible for food supplies.**
5. **Military operations must not target civilians, non-combatants, or objects unrelated to the war effort.**

Before declaring war against an enemy, Islamic law requires that attempts be made to restore friendly

relations, negotiate a peace treaty, or propose terms of engagement. If the enemy refuses the first two options and insists on war, military actions may then be initiated. During hostilities, damage may be inflicted on the enemy's combatants and those who assist them. However, enemy combatants who refuse to participate in war, lay down their weapons, flee the battlefield, voluntarily surrender, aid the Muslims, or convert to Islam are not to be killed. Enemy combatants may be killed during active hostilities or after being defeated. However, captured deserters must not be tortured unnecessarily.

Islamic law prohibits killing women, children, the elderly, disabled individuals, religious clergy, and those not directly aiding the enemy. Instead, they may be captured and enslaved. Some Shafi'i scholars advocate for the killing of sick or elderly male combatants, but if the individuals belong to heretical sects, Shafi'i scholars believe they should be killed. However, Abu Hanifa opposes killing women and children, even if they belong to heretical sects.

According to Mukhtasar, if the Muslim leader declares war against disbelievers without first inviting them to accept Islam, he is deemed sinful. If the disbelievers refuse to accept Islam, they are then offered the option of paying the jizya tax. If they agree to pay the jizya, their lives and wealth are protected under Muslim rule, and they share the privileges and hardships of the state with Muslims. If they refuse to pay the jizya, the Islamic state declares war against them using permissible weapons, destroys their trees, crops, and fields, but does not violate previous treaties (if any exist). Captured spoils are not misappropriated but are distributed justly, and the ears and noses of prisoners are not cut off. Non-combatants such as elderly men, children, the mentally ill, paralyzed individuals, severely ill patients, amputees, the mute, and the deaf are not to be killed.

However, a woman participating in battle as a leader and attempting to disperse the Muslim forces can be killed. Similarly, those who do not participate directly in combat but call for war, inspire disbelievers to fight against Muslims, or provide material support to the disbelievers are also subject to being killed.

A son fighting in the ranks of the disbelievers cannot kill his father unless the father intends to kill him, and the son has no other means of defense or escape. In such a situation, the son is permitted to kill his father in self-defense.

According to Islamic teachings, women should not be brought to the battlefield. The head of the Islamic state may enter into a peace treaty with disbelievers for a specific benefit if necessary. The



decision on peace treaties is based on what serves the interests of the Muslims. If it benefits the Muslims, the head of the Islamic state is also permitted to break the treaty.

If the disbelievers violate the terms of a peace treaty, the head of the Islamic state has the right to initiate war against them without prior declaration. Even when a peace treaty is established with disbelievers, Muslims are prohibited from selling them weapons, iron, or horses.

Muslim men and women have the right to grant protection (aman) to disbelievers. However, if granting protection harms the Muslim community, the head of the Islamic state can annul it. If the person granting protection knowingly does so in a way that harms the Muslims, they will be warned.⁹

During the era of the Caliphs, it became customary for the head of state to address the soldiers and provide them with instructions before sending the military forces into battle against the enemy. For instance, Abu Bakr Siddiq (may Allah be pleased with him) gave the following instructions to the commander Yazid ibn Abi Sufyan regarding his treatment of the soldiers before the commencement of battle: "Avoid the faults of ignorance (Jahiliyyah), for Allah hates them and their people. When you reach your army, speak to them kindly. Begin by showing them goodness and promising them good.

If you preach to them, keep it brief, for long speeches may cause them to forget parts of it. If you behave well, the people will do good to you. Perform prayers on time, completing the bowing, prostration, and humility in full".¹⁰

Before sending Usama ibn Zayd (may Allah be pleased with him) to fight against the Romans, Abu Bakr Siddiq (may Allah be pleased with him) gave the following instructions to him and his army: "Do not commit treachery. Do not deceive anyone. Do not misappropriate from the spoils of war. Do not touch the dead. Do not kill young children or the elderly. Do not cut down palm trees. Do not slaughter sheep, cows, or camels except for food. Leave alone that which has been dedicated to places of worship. Do not harm monks in their monasteries.

When you see a people who have shaved the middle of their heads and left the rest tied in a circle, strike the part of their head they shaved with the sword. When food is placed before you, eat it by mentioning the name of Allah".¹¹

The Muslims' military operations against non-Muslims are permissible only in exceptional circumstances. In the early Islamic period, such operations were carried out in connection with the spread of Islam across the region. These actions were conducted based on strict regulations. According to these regulations, non-Muslims were first invited to Islam. If they did not respond positively to the invitation, did not initiate war against Muslims, or even if they had initiated war but had not killed any Muslims, then waging war against non-Muslims was prohibited under Islamic law. However, if non-Muslims initiated military actions against Muslims and killed any of them, Muslims were permitted to begin war only after presenting evidence of the killed Muslims to the non-Muslims.

It is narrated that when Muhammad (peace be upon him) sent Mu'adh to lead a war against non-Muslims, he instructed him as follows: "Do not begin war without first inviting them to Islam. If they reject the invitation, do not fight them until they kill one of your people. Then show them the one who was killed and ask, Is this the right way to behave?".

Regarding the prohibition of killing children in war, Muhammad al-Ustrushani writes: "It is narrated from Zayd bin Thabit that the Messenger of Allah (peace be upon him) would send small military units and say, Do not kill children (walid), women, or elderly men. The word "walid" in the hadith refers to infants. Although everyone is born, this term is generally used for young children. It refers to those who are incapable of fighting, crying out in confrontation, or commanding in battle".¹²

Ali ibn Abi Talib (may Allah be pleased with him) always instructed his soldiers: "Do not pursue those who flee! Do not harm the wounded! Do not touch their belongings! Whoever lays down their weapon is safe! Whoever closes their door is safe!".¹³

In Islamic law, not only is it a crime to attack a person's life and right to live, but also any unlawful actions against their health, honor, reputation, dignity,

⁹ Қаранг: Мухтасар: (Шариат қонунларига қисқача шарх). Т.: "Қўлпон"-1994. -Б.295.

¹⁰ Кўчирма олинди: Шайх Муҳаммад Содиқ Муҳаммад Юсуф. Ҳадис ва Ҳаёт. 21-Жуз. Абу Бакр ва Умар розияллоху анхумо.-Т.: "SHARQ", 2011. –Б.168-169.

¹¹ Кўчирма олинди: Шайх Муҳаммад Содиқ Муҳаммад Юсуф. Ҳадис ва Ҳаёт. 21-Жуз. Абу Бакр ва Умар розияллоху анхумо. Т.: "SHARQ", 2011. – Б. 130.

¹² Муҳаммад ибн Маҳмуд ал-Уструшаний. Жомий аҳком ас-сигор. Сайланма // Масъул муҳаррир: Шайх Абдулазиз Мансур. -Т.: "Шарқ", - 2011. - Б.152.

¹³ Шайх Муҳаммад Содиқ Муҳаммад Юсуф. Ҳадис ва Ҳаёт. 21-Жуз. Усмон ва Али розияллоху анхумо. Т.: "SHARQ", 2011. – Б. 292.



self-respect, psychology, property, residence, and personal inviolability are considered crimes. Those who commit such acts are subject to appropriate criminal liability.

During military operations, Islamic law prohibits destroying crops, cutting down trees, harming or killing domestic animals unless for food, killing or injuring non-combatants, ordinary workers, children, the elderly, and women. The legal basis for this can be found in the sayings of Muhammad (peace be upon him), such as when he instructed soldiers practicing archery on sheep: "Do not harm animals!" The Prophet (peace be upon him) also said, "Allah curses those who harm animals", and "Do not punish Allah's creatures with fire".

When informed that a woman had been killed during military operations, the Prophet (peace be upon him) responded, "But she was not fighting in the battle, was she?". He then ordered, "Go and inform Khalid not to kill any children or workers".

Caliph Abu Bakr also provided specific instructions to soldiers: "Do not engage in acts of corruption, and I absolutely disapprove of them"; "Do not slaughter sheep or any other animals except for food"; "Refrain from torturing, as it is sinful and vile".

The general principles of Islamic law, as mentioned above, must be adhered to during war, especially in areas where military operations are taking place. During wartime, the military forces of the parties involved are permitted to harm or kill only those directly participating in military operations or assisting the combatants. Islamic law strictly prohibits attacks on the health, honor, reputation, dignity, self-respect, psychology, property, residence, and personal inviolability of civilians who are not directly participating in or assisting with the war effort.

The legal status of prisoners in Islamic law and their legal protection is a subject deeply rooted in the principles of justice, fairness, and human rights as prescribed by the Qur'an, Hadith, and classical Islamic jurisprudence. Islamic law emphasizes the importance of peace and harmony, discouraging war unless it is for self-defense, the elimination of oppression, or the establishment of justice. The study reveals that the treatment of prisoners of war in Islam is regulated by strict ethical guidelines, ensuring their protection and humane treatment.

Islamic legal traditions place a strong emphasis on maintaining peace through treaties, negotiations, and diplomatic relations, avoiding unnecessary conflict. The concept of jihad is also clarified as a struggle for righteousness rather than an unrestricted call to warfare. While jihad includes military defense, it

primarily refers to a broader moral and spiritual effort to uphold justice and Islamic values.

The legal status of prisoners in Islamic law is governed by a framework that emphasizes justice, fairness, and the protection of human dignity, even in the context of war. Islamic law not only prohibits unjust and aggressive wars but also mandates that all military actions be conducted with strict ethical guidelines. This includes the treatment of prisoners, the protection of non-combatants, and the respect for treaties and peace agreements. The primary objective of war, according to Islamic teachings, is self-defense, the elimination of oppression, and the establishment of justice.

The concept of jihad, often misunderstood, is not merely a call to war, but rather a comprehensive struggle that includes the moral and spiritual effort to uphold righteousness and justice. War, when deemed necessary, is regulated by strict rules that prohibit unnecessary harm to civilians, destruction of property, and the mistreatment of prisoners. The teachings of the Prophet Muhammad emphasize the importance of mercy, honesty, and kindness, even in times of conflict.

Furthermore, the protection of prisoners of war is integral to the Islamic legal framework, where they are afforded rights and dignity, with the state being responsible for their welfare. Islamic law acknowledges the complexity of international relations, recognizing the importance of treaties, alliances, and peaceful resolutions. The principles laid out in the Qur'an and hadith serve as a foundation for Islamic jurisprudence, ensuring that war is a last resort, and only waged under just conditions.

In conclusion, Islamic law provides a comprehensive system for dealing with war, prisoners, and the ethical conduct of military operations, which not only protects the rights of individuals but also seeks to maintain peace and justice in society.

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World Bulletin of Management and Law (WBML)
Available Online at: <https://www.scholarexpress.net>
Volume-44, March -2025
ISSN: 2749-3601

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