

The Humanitarian Dimension of Islamic Legislation during the Conquest of Makkah

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ملخص البحث:

البعد الإنساني للتشريع الإسلامي أثناء فتح مكة

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تهدف هذه الدراسة إلى الوقوف على فتح مكة، وما صاحبه من مواقف وتشريعات لها بعدها الإنساني، وبيان أهم التطبيقات العملية للقانون الدولي الإنساني الإسلامي حال الحرب، من خلال نموذج فتح مكة، حيث جاء البحث في ثلاثة مباحث، تضمن الأول منها: البعد الإنساني في دوافع وأسباب فتح مكة، وخلصت إلى أن أسباب الحرب وبواعثها في الإسلام نبيلة، ولا تقتصر إلى الأبعاد الإنسانية، وغايتها رفع الظلم ودفع العدوان ونصرة المظلوم، وتضمن الثاني البعد الإنساني في تطبيق قواعد الشريعة التي انتظم بها فتح مكة، وتوصلت إلى أن الجرحى والمرضى والأسرى والمدنيين، وسائر ضحايا النزاعات المسلحة يحظون بالحماية من أي اعتداء أثناء النزاع، وهذا مقرر في الشريعة الإسلامية، وأكدته أحداث فتح مكة، وأن فتحها كان نموذجاً عملياً رائعاً لتطبيق القانون الدولي، من حماية المدنيين والأسرى، والأعيان المدنية، والصفح والعفو وعدم الانتقام، وتضمن المبحث الثالث البعد الإنساني في المواقف التشريعية المصاحبة لفتح مكة، وخلصت إلى أن هذه المواقف كانت متوجة بالأبعاد الإنسانية على مستوى الأفراد بأشخاصهم، وعلى مستوى العامة.

Abstract

This study aims to focus on the Conquest of Makkah and the associated events and legislations that have a humanitarian dimension. It also aims at clarifying the most important applications of the Islamic

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international humanitarian law in the case of war through the story of the Conquest of Makkah.

Introduction

All praise is due to Allah, and Allah's Peace and Blessings be upon the master of messengers, the role model of educators, our Prophet Mohammed, and his pure family, his noble Companions, and all those who follow them until the Day of Judgment.

Fighting between people over time is necessitated by the will of Allah and the nature of human. However, it is not intended in Islam to kill people or exterminate communities as a result of this fighting. Rather, fighting in Islam has noble goals and humane aims in the true sense of the word. Wars in Islam are legislated to repel invaders and remove oppression and injustice; with the ultimate aim of making justice prevail on earth. Therefore, the military actions carried out by fighters in Islam have many unprecedented ethical restrictions that have no parallel in any law or legislation. Hence, it is not surprising that the Allah made the mission of His Prophet (peace be upon him) a mercy to the worlds, those worlds that include people who lost all the meanings of compassion and humanity against their fellow man, and blindly followed their desires and tendency towards aggression. This is even worse when people of such actions claim that they do so to defend human rights and in the same time keep attacking Islam and his followers everywhere.

Indeed, the absence of values and ethics in the oppressive attacks of the enemies of Islam on the Arabs and Muslims land confirms how these enemies are criminal against themselves and against humanity. On the contrary, the reality of Islamic legislation and the practices of Muslims in the past and present are true witnesses on the Muslim fighters' supremely ethics on which Islam raised them despite the injustice and oppression they suffered.

Research Importance

Research importance is presented in the following three points:

1. Legislation of laws to achieve justice in peacetime is an easy matter. However, introducing controls and legislation to achieve justice in wartime is difficult. Despite this fact, Islam was the former in confirming these rules and controls.
2. The current state of the nation: Any observer of the reality of the Islamic nation finds a hard situation, especially with the absence of a real understanding of the controls of fighting and the ethics of war in Islam. This has weakened Muslims' intellectual and militant defending capacity against such charges that are completely fabricated.
3. It is a common claim nowadays in the western media organizations, and

their followers in the Arab world, that Islam is a source of terrorism and that Islam calls for terrorism, which should be refuted and clarified.

Research Aims

The research aims at:

1. Highlighting the bright face of Islam and its legislation not only in peacetime, but also in wartime and victory.
2. Clarifying of humanitarian and legislative stories associated with the Conquest of Makkah.
3. Explaining the most important applications of the Islamic international humanitarian law, with reference to the Conquest of Makkah.

Problem Statement

There are common claims in media led by the western organizations and their followers in the Arab world, that Islam is a source of terrorism. In addition to the absence of a true understanding of fighting controls and ethics in Islam, this has weakened Muslims' intellectual and militant defending capacity against such false charges. So, is there any Islamic legislation texts that establish fighting rules and regulations with a humanitarian dimension? Is it possible to find a confirmation and practical stories of such rules in the Islamic wars in history?

Research Questions

1. What is the nature of relationship between the Muslims and the disbelievers of Quraish prior to the Treaty of Hudaibiyyah and the Conquest of Makkah?
2. What are the motives and reasons for the Conquest of Makkah?
3. What are the most important legislative stories that have a human dimension during the Conquest of Makkah?
4. Is it acceptable that the rules of Sharia which were associated with the Conquest of Makkah form a practical application of the international humanitarian law?

Research Hypotheses

1. War motives in Islam are noble ones that are based on the rejection of injustice and supporting the oppressed.
2. Islam has put controls and legislation to achieve justice and prevent oppression in wartime.
3. Implementation of the international humanitarian law aspects can be observed in the events of the Conquest of Makkah.

Previous Works

This is not the first study to handle implementation of the international humanitarian law aspects in Islam. Several scholars have

contributed to this field including Prof. Zaid bin Abdul-Karim Al-Zaid, Prof. Wahba Al-Zohaily, Prof. Mohammed Tal'at Al- Ghonaimy, Dr. Abdul-Salam Al-Sharif, and Dr. Aamer Al-Zammaly. In addition, several Islamic websites have discussed this issue. However, this study tackles this issue using an analytical approach to highlight the practical aspects of the international humanitarian law that could be read in the Conquest of Makkah.

Research Methodology and Plan

The research is based on the descriptive, analytical, and deductive methodology that focuses on the events and Prophetic texts associated with the Conquest of Makkah, and the supporting verses from the Noble Quran. Thus, the research has been planned as follows:

- First topic: the human dimension in the motives and reasons for the Conquest of Makkah.
- Second topic: the humanitari and imension in the application of the Sharia rules which controlled the Conquest of Makkah.
- Third topic: the humanitarian dimension in the legislative events associated with the Conquest of Makkah.
- Conclusion: This includes the most important findings and recommendations.

First Topic

The Human Dimension in the Motives and Reasons for the Conquest of Makkah

The Conquest of Makkah wasn't an odd event in a stable situation. It also wasn't an exceptional event among a series of associated, preceding, or following interrelated incidents. Rather, the Conquest of Makkah occurred as a result of natural series of events that took place in the context of conflict between truth and falsehood in multiple forms. In order to understand the historical context in which the Conquest of Makkah happened, it is essential to understand the nature of the relationship between Muslims and the disbelievers of Quraish prior to the conquest. It is essential in this regard to know the motives and reasons for the Conquest of Makkah, according to the following sub-topics:

1.1 The relationship between Muslims and the disbelievers of Quraish prior to the conquest:

1.1.1 The Pre-Hijrah Stage

The Prophet (peace be upon him) faced at the beginning of his Da'wa in Makkah enormous obstacles by Quraish. This included the objection and distortion of his message, torture and murder of his companions. The books of Sirah mentioned several forms of this oppression, assault, and harm

practiced against the Prophet (peace be upon him) and his companions by the disbelievers and impertinent of Quraish.

1. Quraysh disbelievers intensified their enmity of the Messenger of Allah (peace be upon him) and those who followed him. They provoked their ignorant people to harm him and accuse him with lie, magic, witchcraft and insanity. Despite that, the Messenger of Allah (peace be upon him) kept manifesting Allah's command publicly, and faced those disbelievers with what they hate of exposing their disbelief, abandoning their idols and their disbelief¹.

2. Muslims among their tribes hold fast to Islam. The disbelievers of Quraish imprisoned Muslims who have no defenders, and tortured them with beatings, hunger and thirst. They also tortured them in the excessively-hot environment of Makkah and in the scorches of the open fire. All of this was to force them leaving Islam. Some of them couldn't afford this extreme hardship, while others practiced patience by the aid of Allah SWT².

3. When Quraysh knew of the conversion of Yasir's family to Islam, they tortured them in the excessively-hot environment of Makkah and in the scorches of the open fire, and the Prophet (peace be upon him) used to pass by them and say: "Patience, O family of Yasir! Your meeting-place will be Paradise."³

4. When the Prophet (peace be upon him) saw the excessive harm that hit his companions, and his inability to defend them, he said to them: "If you were to go Abyssinia (it would be better for you), for the king will not tolerate injustice and it is a friendly country, until such time as Allah shall relieve you from your distress." Thereupon his companions went to Abyssinia, being afraid of apostasy and fleeing to God with their religion.⁴

5. Narrated Abdullah bin Masud, may Allah Be Pleased with him: "once the Prophet was offering prayers at the Ka'ba. Abu Jahl was sitting with some of his companions. One of them said to the others, "Who amongst you will bring the abdominal contents of a camel of Bani so and so and put it on the back of Mohammed, when he prostrates?" The most unfortunate of them got up and brought it. He waited till the Prophet prostrated and then placed it on his back between his shoulders. I was watching but could not do anything. I wish I had some people with me to hold out against them. They started laughing and falling on one another. The Prophet was in prostration and he didn't lift his head up till Fatima (Prophet's daughter) came and threw that (camel's abdominal contents) away from his back."⁵

6. Quraish plotted to imprison, restrict, kill or exclude the Prophet (peace be upon him). This is mentioned in the Noble Quran. Allah SWT said what roughly means "And [remember, O Muhammad], when those who disbelieved plotted against you to restrain you or kill you or evict you [from

Makkah]. But they plan, and Allah plans. And Allah is the best of planners.”⁶

One who observes Sirah events in Makkah stage (prior to Hijrah) concludes that oppression, persecution, and injustice were reality in the life of the Prophet (peace be upon him) and his companions. This assault was practiced against Muslims by one party which is the disbelievers of Quraish. There was attempt to repel the aggression and injustice, but instead the practice of good patience.

1.1.2 The Post-Hijrah Stage until the Treaty of Hdaybiyyah

Enmity of the Quraysh towards the Prophet (peace be upon him) and his companions didn't change after the Hijrah, migration. Instead, it intensified and expanded to more extreme aspects. Quraysh initiated several wars against Muslims in Madinah, incited tribes to fight them, and cooperated with the Jews and the hypocrites of Madinah to fight the Prophet (peace be upon him) and his companions. All of this was to eradicate Muslims, which is indicated by the following events:

1. In spite of the survival of the trade caravan owned by Quraish, Quraishi refused but war and fighting. Thus, the battle of Badr happened despite that Muslims' aim was to recover some of their wealth that Quraish robbed. War was not their intention. Quran reported this. Allah SWT said what roughly means: “And do not be like those who came forth from their homes insolently and to be seen by people and avert [them] from the way of Allah. And Allah is encompassing of what they do.”⁷ He SWT also said what roughly means: “And already had Allah given you victory at [the battle of] Badr while you were few in number. Then fear Allah; perhaps you will be grateful.”⁸

2. After the defeat of the disbelievers at Badr, they couldn't wait. They prepared a large army to attack the Prophet (peace be upon him) and his companions in Madinah. Thus, the battle of Uhud took place, in which Prophet's uncle, Hamza, and 70 companions were killed. The Prophet (peace be upon him) himself was injured too. Quran reported this. Allah SWT said what roughly means: “And what struck you on the day the two armies met was by permission of Allah that He might make evident the [true] believers.”⁹ He SWT also said what roughly means: “If a wound should touch you - there has already touched the [opposing] people a wound similar to it. And these days [of varying conditions] We alternate among the people so that Allah may make evident those who believe and [may] take to Himself from among you martyrs - and Allah does not like the wrongdoers.”¹⁰

3. After that, the battle of Khandaq (the trench) or Ahzaab (the allies), took place where Quraish incited tribes, and the Jews and the hypocrites of

Madinah to fight Muslims. Allah SWT mentioned this in Quran. He SWT also said what roughly means: “O you who have believed, remember the favor of Allah upon you when armies came to [attack] you and We sent upon them a wind and armies [of angels] you did not see. And ever is Allah, of what you do, Seeing * [Remember] when they came at you from above you and from below you, and when eyes shifted [in fear], and hearts reached the throats and you assumed about Allah [various] assumptions.”¹¹

The above-mentioned events confirm a fact that there was a lasting case of enmity and hatred from Quraish towards the Prophet (peace be upon him) and his companions. This case developed and resulted in several wars that aimed at eradicating and exterminating Muslims. Muslims’ reaction was limited to defend themselves, until they signed the Treaty of Hdaybiyyah. In this treaty, the Prophet (peace be upon him) offered some concessions that do not affect the Aqidah, faith. This urged Omar (may Allah be pleased with him) to raise a question. Omar came to the Prophet (peace be upon him) and said: “Are we not on the true cause and theirs is the false cause, are not our killed in Paradise and theirs in the Fire?” the Prophet said: “Yes.” Omar said: “Why then should we be humble with regards to the cause of our religion. Why should we go back before Allah decides in the matter between us (between Muslims and the disbelievers)” The Prophet said: “O son of Al-Khattab! I am Allah's Messenger and He will never abandon me.”¹²

1.2 Motives and Reasons for the Conquest of Makkah

The Treaty of Hdaybeyyah stated that anyone, who wished to enter a bond and security with the Prophet (peace be upon him), would be permitted to do so, likewise, anybody could resort to a similar agreement with the Quraysh. Any attack on an ally of either party is considered an attack on the party itself. Accordingly, Khuza’a tribe entered a bond with the Prophet (peace be upon him), and Banu Bakr tribe entered a bond with Quraysh. Both tribes were enemies during the time of ignorance, Jafeleyya. The Banu Bakr tribe took the opportunity to take revenge on Khuza’a for the old days. Nawfal bin Mu’aweyah Al-Dayly led a clan of the Banu Bakr tribe in the month of Shaban, 8 AH to make a night raid against the Khuza'a tribe. They killed a few of them and spent few hours of fighting. Quraish helped the Banu Bakr with weapons and some of them took part in the fighting under the cover of darkness. Amr bin Salem from the Khuza’a tribe rushed to the Prophet (peace be upon him) and asked him for help according the Treaty of Hdaybeyya. Prophet (peace be upon him) said “You have been helped O Amr bin Salem.”¹³

It could be understood from the above-mentioned story that Quraish’s and Banu Bakr’s revocation of the Treaty of Hdaybeyya, their

declaration of war on the tribe of Khaza'a, and their attack and murder of the peace loving and praying people is a clear treachery. This means that the attacked party is no more bound by the terms of the Treaty. The Prophet (peace be upon him) was not the one who initiated the fighting and assault. Rather, his allies were the victims of such violence. It is accepted that among requirements of the Treaty that he is ought to support them if they were attacked by any tribe affiliated to the Quraish party.

1.3 The Humanitarian Dimension in the Motives of the Conquest of Makkah

It is possible when analyzing the motives and reasons for the Conquest of Makkah to identify the humanitarian dimensions of these motives, as follows:

1.3.1 fighting treachery, betrayal, and breaking covenants:

Treachery and breaking covenants are disgraced and inhuman practices. They contradict the human values, which are based on the fulfillment of promises. The behavior of Quraysh in breaking the Treaty of Hudaibiyah, and killing the innocent requires strict accountability for this brutal and unethical behavior.

This is because the Prophet (peace be upon him) wasn't the one who initiated the attack. Rather, Quraish was the one who broke the covenant and the treaty, and supported its allies to attack allies of the Prophet (peace be upon him).

1.3.2 Fulfilling covenants

The Prophet's (peace be upon him) commitment towards his allies was not only a moral obligation, but also a human and noble behavior that presents an education example for Muslims. It is an obedience of Allah's command. Allah SWT said what roughly means "O you who have believed, fulfill [all] contracts."¹⁴

1.3.3 Resisting aggression and prevention of oppression

The attack on the tribe of Khaza'a, which was one of the Prophet's (peace be upon him) allies represents an attack on the Prophet (peace be upon him) and on all Muslims. It is accepted that the attacked person has the right to defend the assault and resist the oppression and the oppressors. Thus, when Muslims went for the Conquest of Mecca, they didn't do so to take revenge on Quraish for the old hatred, to seek wealth, or shed bloods. It was only intended to defend the assault and resist the oppression that were practiced on the allies of Khaza'a. This was an implementation of Allah's command in Quran "And fight in the Way of Allah those who fight you, but transgress

not the limits. Truly, Allah likes not the transgressors.”¹⁵

1.3.4 Supporting the oppressed

Islam is a religion of humanity, and a message of mercy for all mankind. Supporting the oppressed is a humanitarian duty that is ordered by Allah SWT. Allah SWT said what roughly means “And what is [the matter] with you that you fight not in the cause of Allah and [for] the oppressed among men, women, and children who say, “Our Lord, take us out of this city of oppressive people and appoint for us from Yourself a protector and appoint for us from Yourself a helper?”¹⁶. The Conquest of Makkah wasn’t an attack on Quraish, but a support of those oppressed by Quraish and its allies.

Second Topic

The Humanitarian Dimension in the Application of Sharia Rules that Controlled the Conquest of Makkah

The Conquest of Makkah includes many human situations that as a whole represent a set of principles of the international humanitarian law in Islam. In addition, that event of the Conquest constitutes practical examples of the implementation of these principles. The following sub-topics clarify this issue.

2.1 Fighting only the Fighters

The Prophet’s (peace be upon him) instructions to the Muslim soldiers in the conquest of Makkah stressed on that fighting should be limited to the disbelievers who carried their weapons to fight the Muslims. It is not permissible to fight those who got rid of their weapons and left fighting. Instead, safety and security of wealth and family members are guaranteed for such people. This is supported by the Hadiths related to the Conquest of Makkah in addition to the following events.

1. What has been narrated that on the day of the Conquest of Makkah, the Prophet (peace be upon him) entered Makkah from its upper end, while Khalid bin Al-Walid (may Allah be pleased with him) entered Makkah from its lower end. The Prophet (peace be upon him) said “don’t kill”. However, Khalid bin Al-Walid killed too much. The Prophet (peace be upon him) said “What has forced you to do so?” He said “O Messenger of Allah I couldn’t have done anything else.”¹⁷

Evidence in the text: The fighting and murder of disbelievers that Khalid bin Al-Walid (may Allah be pleased with him) has done at the lower end of Makkah was directed against those who carried their weapons to fight.¹⁸

2. What has been narrated that Al-Abbas, uncle of the Prophet (peace be upon him) said to him on the day of the Conquest of Makkah “let my mother

and father be sacrificed for you, they are your tribe and your people among them you grew up. They are your uncles, fathers and sons. It would be good if you initiate and forgive their delegation. And this is Abu Sufyan, a man of an honor. So, would you grant him a special favor so that people praise him? ”The Prophet (peace be upon him) said: “order a man to call on people: Whoever enters the house of Abu Sufyan shall be safe.” Abu Sufyan said “let my mother and father be sacrificed for you, is my house that important! it is only a cattle housing place. Instead, grant your people safety wherever they are.”The Prophet (peace be upon him) said: “Anyone who puts down his weapon shall be safe, anyone who joined us shall be safe, anyone who didn’t harm anyone shall be safe, and anyone who shuts his door shall be safe.”¹⁹

Evidence in the text: In this Hadith, it is clear that fighting those who are not fighters is not permissible. This is because whoever put his weapon down is no more a fighter. This is also true for one who closed his door and sat down in his own house. Such people may not be subjected to any harm, and they should be fully safe. On the contrary, the Hadith indicates that those who didn’t put their weapons down and didn’t stop fighting are unsafe because they are still fighters. Thus, war in Islam is only limited to those who are engaged in fighting Muslims.

3. Ibn Omar (may Allah be pleased with him) narrated that the Prophet (peace be upon him) came by a killed woman on the day of the Conquest of Makkah, and said “she wouldn’t fight!”²⁰ He then forbade killing women and children.

Evidence in the text: The prohibition of the Prophet (peace be upon him) to kill women and children is definite evidence that it is not allowed to fight those who don’t fight. This is because women as well as children are not people of fighting. This is why the Prophet (peace be upon him) said “she wouldn’t fight!” i.e. if she was fighting then there would be nothing wrong. This is evidence on the humanitarian dimension in Islamic legislation, where fighting is only limited to the fighters. This is a direct implantation of Allah’s command in Quran “And fights in the Way of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors.”²¹

2.2 Protection of Civilians from Fighting

One of the rules of war in Islam is that fighting shouldn’t be practiced against the non-fighters. Civilians should be guarded from all kinds of harm. This is because Allah SWT says what roughly means “And fights in the Way of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors.”²²

It has been proven in the events of the Conquest of Mecca, as was mentioned in the relevant Hadiths, that soldiers shouldn’t attack non-fighters such as

civilians, and those who are attached to them such as prisoners. This is confirmed by the following Hadiths:

1. Ibn Omar (may Allah be pleased with him) narrated that the Prophet (peace be upon him) came by a killed woman on the day of the Conquest of Makkah, and said "she wouldn't fight!"²³ He then forbade killing women and children.

Evidence in the text: The prohibition of the Prophet (peace be upon him) to kill women and children is definite evidence that civilians should be protected from the fighting. This is because women as well as children are not people of fighting. This is why the Prophet (peace be upon him) said "she wouldn't fight!" i.e. if she was fighting then there would be nothing wrong. This gives clear evidence on the principles of Islam that fighting is only against those who fight, and that civilians should be kept safe and away from any harm.

2. It has been narrated that on the day of the Conquest of Makkah an unknown man shouted twice: "There shall be no Quraish after today." So Allah SWT revealed: "And if you punish them, then punish them with the like of that with which you were afflicted. But if you have patience, then it is better for those who are patient."²⁴ Then the Messenger of Allah (peace be upon him) said: "Leave the people."^{25,26}

Evidence in the text: The order made by the Prophet (peace be upon him) to leave the Quraish people and not to harm them is consistent with the instructions of the revealed verse. This verse urged them to practice patience against the harm they faced at the beginning of Da'wa in Makkah. This is because patience is better than punishing them with the like of that with which they were afflicted. The response to what was uttered by one of the soldiers that: "no Quraish after today" also confirms that the war in Islam is not a place for retaliation and revenge tendencies. It has not been legislated to practice deterioration and murder. This also confirms that if revenge is not allowed in the case of fighters, then it is not allowed too in the case of civilians who should be protected from any harm.

3. In the year of the Conquest of Mecca, the tribe of Khuza'a killed a man from the tribe of Bani Laith in revenge for a killed person belonging to them in the Pre-Islamic Period of Ignorance, Jahileyya. The Prophet (peace be upon him) was told about the event, so he rode his camel and came to the saying: "Allah held back the (army having) elephants from Mecca, but He let His Apostle and the believers overpower the infidels (of Mecca). Beware! (Mecca is a sanctuary)! Verily! Fighting in Mecca was not permitted for anybody before me, nor will it be permitted for anybody after me; It was permitted for me only for a while (an hour or so) of that day. No doubt! It is at this moment a sanctuary; its thorny shrubs should not be uprooted; its trees should not be cut down; and its Luqata (fallen things)

should not be picked up except by the one who would look for its owner. And if somebody is killed, his closest relative has the right to choose one of two things, i.e., the blood money, or retaliation by having the killer killed.”²⁷

Evidence in the text: The hadith of the Prophet (peace be upon him) confirms that all military actions should be stopped, and that any attack after that is considered a crime worthy of punishment. This includes murder since murdered person’s closest relative has the right to choose either the blood money or retaliation by having the killer killed. This confirms that civilians should be protected and not harmed in anyway.

All of the above-mentioned evidences emphasize the humanitarian dimension in the principle of civilians’ protection, and the prohibition of harming them. This is confirmed principle by Islamic law, Sharia that is reversely understood from the verse “And fights in the Way of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors.”²⁸

2.3 Protection of the Wounded and Prisoners

As mentioned above, one of the war rules in the Islamic legislation is fighting only the fighters, and anyone who took up arms and practice military actions. It is evidenced that civilians should be attacked because they have nothing to do with fighting. The wounded and the prisoners, who are no more able to fight or put down their weapons, should be protected too. Safety should be guaranteed for them on their wealth and souls. This is confirmed in the events of the Conquest of Makkah mentioned in the following hadiths:

1. What has been narrated that Al-Abbas, uncle of the Prophet (peace be upon him) said to him on the day of the Conquest of Makkah“ let my mother and father be sacrificed for you, they are your tribe and your people among them you grew up. They are your uncles, fathers and sons. It would be good if you initiate and forgive their delegation. And this is Abu Sufyan, a man of an honor. So, would you grant him a special favor so that people praise him?” The Prophet (peace be upon him) said: “order a man to call on people: Whoever enters the house of Abu Sufyan shall be safe.” Abu Sufyan said “let my mother and father be sacrificed for you, is my house that important! it is only a cattle housing place. Instead, grant your people safety wherever they are.”The Prophet (peace be upon him) said: “Anyone who puts down his weapon shall be safe, anyone who joined us shall be safe, anyone who didn’t harm anyone shall be safe, and anyone who shuts his door shall be safe.”²⁹

Evidence in the text: This Hadith is direct evidence that those who put his weapon down and stopped fighting shouldn’t be attacked or harmed. Such

people should be protected even from getting captured. They should be considered as civilians for whom safety of wealth and family is ensured.

2. The Prophet (peace be upon him) ordered a man to call on people on the day of the Conquest of Makkah saying: “don't kill the wounded, don't trace the runaway, don't kill a prisoner, and anyone who shuts his door shall be safe”³⁰

3. Hussein (may Allah be pleased with him) narrated that the Prophet (peace be upon him) said on the day of the Conquest of Makkah: “don't kill the runaway or the wounded, and anyone who shuts his door shall be safe”³¹

Evidence from both Hadiths: Protection of prisoners, the wounded, those who left fighting or ran away, those who shut their doors and remained in their places, protection of all of those people is guaranteed in the Islamic Sharia as manifested in the previous two Hadiths. The Prophet (peace be upon him) clearly prohibited attacking the captured, and those who left fighting by escaping from the battle field, getting rid of their arms, or as a result of being wounded.

4. It has been narrated that the Prophet (peace be upon him) said on the day of the Conquest of Makkah: “four persons I don't give them security outside and inside the Haram: Al-Hareth bin Nuqaid, Maqees bin Sababa, Abdullah bin abi Sarh, and Helal bin Khatal.” Then, Ali (may Allah be pleased with him) killed Al-Hareth bin Nuqaid, a cousin of Maqees killed him, and Al-Zubair bin Al-Awwam killed Helal bin Khatal.³²

5. On the day when Mecca was conquered, the Prophet of Allah (peace be upon him) gave protection to the people except four men and two women and he named them. Ibn Abi Sarh was one of them. He then narrated the tradition. He said: Ibn Abi Sarh hid himself with Uthman ibn Affan. When the Prophet of Allah (peace be upon him) called the people to take the oath of allegiance, he brought him and made him stand before the Prophet of Allah (peace be upon him). He said: Prophet of Allah, receive the oath of allegiance from him. He raised his head and looked at him thrice, denying him every time. After the third time he received his oath. He then turned to his Companions and said: Is not there any intelligent man among you who would stand to this (man) when he saw me desisting from receiving the oath of allegiance, and kill him? They replied: We do not know, Prophet of Allah, what lies in your heart; did you not give us a hint with your eye? He said: It is not proper for a Prophet to have a treacherous eye. Abu Dawoud said: “he was Uthman ibn Affan's brother in law. Al-Walid bin Oqbah was Uthman ibn Affan's brother, and Uthman punished him for drinking.”³³

Evidence in the text: The Prophet (peace be upon him) gave his order in these four named persons. Then, the blood of both Ikrima ibn Abi Jahl and Abdullah bin Saad was saved when they accepted Islam. The other two were

killed as disbelievers who didn't accept being granted safety by accepting Islam or putting down their arms.

This indicates that whoever accepted being granted security, put his arms down, and stopped fighting then his blood shall be saved. On the contrary, whoever insisted to fight and didn't put his arms down is considered a fighter, and should be fought and killed.

It is possible to say that the exception of Ikrima ibn Abi Jahl and Abdullah bin Saad cases was supported by Sharia rules, although was not specifically orally mentioned. This means that the some of the penalties decided by Imams could be excluded by Sharia rules, even if Imams didn't exclude them orally.

6. It has been narrated that Um Hani' came to the Prophet (peace be upon him) and said:

O Allah's Messenger! My brother has told me that he will kill a person whom I gave shelter and that person is so and so the son of Hubaira. The Prophet said: "We shelter the person whom you have sheltered O Um Hani'"³⁴

Evidence in the text: Safety granted by Um Hani' could be understood as an additional measure she did to assure safety for them, while Ali's killing of the two men is possibly related to a fighting action they did³⁵. This is supported by the statement of Abu Al-Abbas bin Suraij: The two men are Ja'da bin Hubaira, and another man. They were among the troop who fought Khalid (may Allah be pleased with him). They didn't accept safety nor put down their weapons. Thus, Um Hani' assured security for them, and they were her cousins.³⁶

Indeed, civilians' protection from fighting and prohibition of attacking prisoners and the wounded is a basic humanitarian principle that is legislated by Sharia. It is an implementation to the verse "And they give food in spite of love for it to the needy, the orphan, and the captive * [Saying], "We feed you only for the countenance of Allah. We wish not from you reward or gratitude."³⁷

2.4 Protection of the Civic Properties

War in Islam has been allowed to repel aggression and prevent corruption. The associated destruction of civic properties is not accepted. Allah SWT made man a successive authority on earth to build and not to destruct. All prescribed legislations aim to achieve this goal. This has been confirmed in the texts of Quran and Sunnah, and in the events of the Conquest of Makkah as follows:

1. In the year of the Conquest of Mecca, the tribe of Khuza'a killed a man from the tribe of Bani Laith in revenge for a killed person belonging to them in the Pre-Islamic Period of Ignorance, Jahileyya. The Prophet (peace be

upon him) was told about the event, so he rode his camel and came to the saying: "Allah held back the (army having) elephants from Mecca, but He let His Apostle and the believers overpower the infidels (of Mecca). Beware! (Mecca is a sanctuary)! Verily! Fighting in Mecca was not permitted for anybody before me, nor will it be permitted for anybody after me; It was permitted for me only for a while (an hour or so) of that day. No doubt! It is at this moment a sanctuary; its thorny shrubs should not be uprooted; its trees should not be cut down; and its Luqata (fallen things) should not be picked up except by the one who would look for its owner. And if somebody is killed, his closest relative has the right to choose one of two things, i.e., either the Blood money or retaliation by having the killer killed."³⁸

Evidence in the text: this Hadith is clear in confirming the protection of civic assets and properties. It is prohibited to cut the trees or even hit its branches so that leaves won't fall. This is confirmed by the Prophet's statement "its thorny shrubs should not be uprooted; its trees should not be cut down."

2. What has been narrated that Al-Abbas, uncle of the Prophet (peace be upon him) said to him on the day of the Conquest of Makkah "let my mother and father be sacrificed for you, they are your tribe and your people among them you grew up. They are your uncles, fathers and sons. It would be good if you initiate and forgive their delegation. And this is Abu Sufyan, a man of an honor. So, would you grant him a special favor so that people praise him?" The Prophet (peace be upon him) said: "order a man to call on people: Whoever enters the house of Abu Sufyan shall be safe." Abu Sufyan said "let my mother and father be sacrificed for you, is my house that important! it is only a cattle housing place. Instead, grant your people safety wherever they are." The Prophet (peace be upon him) said: "Anyone who puts down his weapon shall be safe, anyone who joined us shall be safe, anyone who didn't harm anyone shall be safe, and anyone who shuts his door shall be safe."³⁹

Evidence in the text: this Hadith clarifies the security and protection advantages given for those who threw their arms and left fighting. This is only achievable if their houses are kept safe so that they can use them as refuges. In fact, any attack on civic features is considered in Islam a deterioration act of earth. This confirms the principle of civic properties protection in the Conquest of Makkah, which is a basic humanitarian principle that is legislated by Sharia. It is an implementation of the verse "And when he goes away, he strives throughout the land to cause corruption therein and destroy crops and animals. And Allah does not like corruption"⁴⁰ and the verse "And cause not corruption upon the earth after

its reformation”⁴¹

Third Topic

The Humanitarian Dimension in the Legislative Events Associated with the Conquest of Makkah

3.1 The Humanitarian Dimension in the Individual Legislative Events

3.1.1 The Pardon of Hatib bin Abi Balta'a

The companion Hatib ibn Abi Balta'ah tried to disclose the secret of Muslim's intention to conquest Makkah. The Prophet (peace be upon him) asked him: "O Hatib! What is this?" Hatib replied: "O Allah's Apostle! Do not make a hasty decision about me. I was a person not belonging to Quraish but I was an ally to them from outside and had no blood relation with them, and all the Emigrants who were with you, have got their kinsmen (in Makkah) who can protect their families and properties. So I liked to do them a favor so that they might protect my relatives as I have no blood relation with them. I did not do this to renegade from my religion (i.e. Islam) nor did I do it to choose Heathenism after Islam." Allah's Prophet said to his companions: "As regards him, he (i.e. Hatib) has told you the truth." Omar said: "O Allah's Prophet! Allow me to chop off the head of this hypocrite!" The Prophet said: "He (i.e. Hatib) has witnessed the Badr battle (i.e. fought in it) and what could tell you, perhaps Allah looked at those who witnessed Badr and said, "O the people of Badr (i.e. Badr Muslim warriors), do what you like, for I have forgiven you."⁴²

The human dimension the Prophet's dealing with Hatib and pardoning him is clear. This is because he knew his sincerity. However, he didn't deny Omar's request to kill him and his accusation to Hatib by hypocrisy. But Hatib's seniority in Jihad, his participation in the Battle of Badr, in addition to the fact that his letter to Quraish that discloses Muslims' intention to conquest Makkah didn't reach Quraish, all of those were reasons that helped him to be forgiven by the Prophet (peace be upon him).

3.1.2 Treating Abu Sufian

The Prophet (peace be upon him) ordered his uncle Al-Abbas (may Allah be pleased with him) to detain Abu Sufyan in the bottom of the valley. This was to get him seeing Muslims' Brigades in the Conquest; so that he won't have the idea of confrontation. This is an evidence of the desire of the Prophet (peace be upon him) to enter Makkah without a fight. This emphasizes the humanitarian dimension in this event which aims to prevent the bloodshed and guard people's lives. Also, the Prophet (peace be upon him) accepted Al-Abbas request to acknowledge the special honor and status of Abu Sufuan among his people. This is another evidence of the

humanitarian dimension in this event on the personal level, i.e. Abu Sufuan status, and on collective level, i.e. Quraish status. Al-Abbas said to the Prophet (peace be upon him): “And this is Abu Sufyan, a man of an honor. So, would you grant him a special favor so that people praise him?” The Prophet (peace be upon him) said: “order a man to call on people: Whoever enters the house of Abu Sufyan shall be safe.” Abu Sufyan said “let my mother and father be sacrificed for you, is my house that important! it is only a cattle housing place. Instead, grant your people safety wherever they are.” The Prophet (peace be upon him) said: “Anyone who puts down his weapon shall be safe, anyone who joined us shall be safe, anyone who didn’t harm anyone shall be safe, and anyone who shuts his door shall be safe.”⁴³

3.1.3 We shelter the person whom you have sheltered O Um Hani’

It has been narrated that Um Hani’ came to the Prophet (peace be upon him) and said:

O Allah's Messenger! My brother has told me that he will kill a person whom I gave shelter and that person is so and so the son of Hubaira. The Prophet said: “We shelter the person whom you have sheltered O Um Hani’.”⁴⁴

In fact, leader’s consideration and response to the requests made by individuals among his people regarding saving lives has a great humanitarian dimension. Such dimensions were clearly distinguished in Prophet’s (peace be upon him) dealing with his people.

3.1.4 Accepting the Request of Um Hakim to Grant Security to her Husband Ikrema bin Abi Jahl

It has been narrated that Ekrema Ibn Abi-Jahl ran away on the day of the Conquest. His wife, Um Hakim bint Al-Harith bin Hesham, took permission from the Prophet (peace be upon him) to grant safety to Ekrema. The Prophet (peace be upon him) accepted her request. She joined him in Yemen and took him back to the Prophet (peace be upon him). When the Prophet saw him he went to him, hugged him, and said: “welcome to the riding migrant.”⁴⁵

3.1.5 Accepting the Request of Umair bin Wahb to Grant Security to Safwan bin Umayya

Safwan left Makkah and headed towards Yemen. Umair bin Wahb said to the Prophet (peace be upon him): O Messenger of Allah! Safwan is the master of his people. He fled intending to throw himself into the sea that he feared be not safe on your part. The Prophet said: “I declare him safe.” Umair asked the Prophet for a physical sign to convince Safwan. The

prophet gave him his turban which he was wearing upon his entry to Makkah.⁴⁶

3.1.6 Returning the Key of Ka'ba to Othman bin Talha

In his Tafseer of the verse "Indeed, Allah commands you to render trusts to whom they are due"⁴⁷ Mujahed said: It has been revealed in Othman bin Talha bin abi Talha when the Prophet received the key of the Ka'ba and opened it on the day of the Conquest, he went reciting this verse. He called on Othman and said to him: "Take it, O Bani Talha, by the trust of Allah, and it will not be taken from you unless by an unjust, oppressive tyrant"⁴⁸

3.2 The Humanitarian Dimension in the Collective Legislative Events

3.2.1 The General Forgiveness Despite the Ability of Taking Revenge

Behavior of the Prophet (peace be upon him) during the Conquest of Makkah, and his forgiveness to those who killed his relatives and companions, and forced him to leave his home, all of this outlines the Islamic humanitarian way in dealing with people in its best form. The following texts are evidence on this meaning.

1. When the Prophet (peace be upon him) opened Makkah, he saw those who killed his uncles, men, and followers, and tortured them with the different ways of torture. He saw those who incited and tried to kill him. He gathered them all and delivered a speech to them. He started by praising Allah and continued: "O Quraysh, I would say to you what Prophet Yusuf (peace be upon him) said to his brothers: `This day let no reproach be cast on you: Allah will forgive you and He is the most Merciful of those who show mercy."⁴⁹⁵⁰

2. The Prophet (peace be upon him) said: "order a man to call on people: Whoever enters the house of Abu Sufyan shall be safe." Abu Sufyan said "let my mother and father be sacrificed for you, is my house that important! it is only a cattle housing place. Instead, grant your people safety wherever they are."The Prophet (peace be upon him) said: "Anyone who puts down his weapon shall be safe, anyone who joined us shall be safe, anyone who didn't harm anyone shall be safe, and anyone who shuts his door shall be safe."⁵¹

Evidence from both Hadiths: The previous texts present a great morality which is among the brightest ones recorded in human history. This is forgiveness despite the ability of taking revenge. Forgiveness was directed to those who killed uncles, relatives, companions, and forced the Prophet (peace be upon him) to leave his homeland. Forgiveness is a great value which gains a special importance when the forgiving person has the full ability to take revenge of those who oppressed him. It is a great principle that Islam urged to implement. It is an implementation of the verse: "and

who restrain anger and who pardon the people - and Allah loves the doers of good”⁵² and the verse: “And We have not created the heavens and earth and that between them except in truth. And indeed, the Hour is coming; so forgive with gracious forgiveness”⁵³

3.2.2 Saving Bloods on the Second Day of the Conquest

In the year of the Conquest of Mecca, the tribe of Khuza`a killed a man from the tribe of Bani Laith in revenge for a killed person belonging to them. The Prophet (peace be upon him) was told about the event, so he rode his camel, came to them, and said: “... and if somebody is killed, his closest relative has the right to choose one of two things, i.e., the blood money, or retaliation by having the killer killed.”⁵⁴

This evidence confirms that war in Islam is directed by the humanitarian meanings rather than revenge. One reason of the Conquest was to support the oppressed tribe of Khuza`a. However, when Khuza`a crossed the limits and killed a person, the Prophet (peace be upon him) declared a general Islamic rule that closest relative of the killed person has the right to choose the blood money, or the retaliation by having the killer killed. This is justice which humanity today looks for.

3.2.3 Equality of People

The Prophet (peace be upon him) delivered a khutba on the second day of the Conquest. He said in it: “O Quraish! Allah has relieved you from the pride of Jaheleyya, ignorance, and glorifying fathers. All people belong to Adam, and Adam was created from soil.” Then he recited this verse: “O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another.”⁵⁵⁵⁶

Conclusion

At the end of this study, it is possible to list the most important findings and recommendations as follows:

First: Most Important Conclusions

1. War causes and motives in Islam are noble ones, and don't lack the humanitarian dimension. Its ultimate aim is to lift the injustice, to prevent the aggression, and to defend the oppressed.
2. In armed conflicts, wounded, sick, civilian people, and all other kinds of casualties deserve protection from all kinds of assault. This is stated in Islamic Sharia, and confirmed by the events of the Conquest of Makkah.
3. The Conquest of Makkah was practically a great example of the application of International Humanitarian Law. This included the protection of civilians and prisoners, the protection of civic properties,

and forgiveness and pardon without seeking revenge.

4. All legislative events associated with the Conquest of Makkah was crowned by a humanitarian dimension at individual and collective levels.

Second: Most Important Recommendations

1. To address contemporary challenges that face Muslims nowadays with the aim of labeling them with aggression and lack of mercy. This is in fact is far from the truth.
2. To invest the various media platforms to manifest and consolidate the humanitarian dimension of the Islamic legislation, especially at times of wars and armed conflicts.
3. To educate young Muslims on the virtuous meanings and human values that guard them from extremism using the different educational incubators.

Footnotes:

¹ Ibn Hesham: the Prophetic Sirah 1/289.

² Ibid. 1/317.

³ Ibid. 1/320.

⁴ Ibid. 1/321-322.

⁵ Narrated by Al-Bukhari in his Sahih, book of Wudu, chapter of "If a dirt was thrown on a praying person back", H240, 157. Narrated also by Muslim in his Sahih, book of Jihad and biographies, chapter of "The hardship that the Prophet received from the disbelievers", H1794, 3/1418.

⁶ The Noble Quran (8:30).

⁷ The Noble Quran (8:47).

⁸ The Noble Quran (3:123).

⁹ The Noble Quran (3:166).

¹⁰ The Noble Quran (3:140).

¹¹ The Noble Quran (33:9-10).

¹² Narrated by Muslim in his Sahih, book of Jihad and biographies, chapter of "the Treaty of Hdaybeyyah in Hdaybeyyah", H1785, 3/1411.

¹³ Ibn Al-Qayyem: Zaad Al-Ma'aad 3/348, Al-Waaqidy: Maghazi Al-Waaqidy 2/783, Al-Mubarakfoury: Al-Raheeq Al-Makhtoom p. 362.

¹⁴ The Noble Quran (5:1).

¹⁵ The Noble Quran (1:190).

¹⁶ The Noble Quran (4:75).

¹⁷ Narrated by Ibn abi Shaiba in the Musannaf, the book of al-Maghazi, Hadith of the Conquest of Makkah, H38104, 14/505.

¹⁸ Al-Nawawi: Al-Nawawi Explanation of Sahih Muslim 12/130

¹⁹ Abu Saad: Honor of the Prophet 4/519, Al-Baihaqi: Signs of Prophethood 5/32.

- ²⁰ Narrated by Imam Ahmad in Musnad, the Musnad of Abdullah bin Omar bin Al-Khattab, H5959, 5/314.
- ²¹ The Noble Quran (1:190).
- ²² The Noble Quran (1:190).
- ²³ Narrated by Imam Ahmad in Musnad, the Musnad of Abdullah bin Omar bin Al-Khattab, H5959, 5/314.
- ²⁴ The Noble Quran (16:126)
- ²⁵ Narrated by Al-Nasaa'ee in As-Sunan al-Kubra, the book of Tafsir: Surat an-Nahl, the verse "And if you punish them, then punish them with the like of that with which you were afflicted", H 11215, 10/145.
- ²⁶ Al-Baihaqi: the Signs of Prophithood 3/289.
- ²⁷ Narrated by Al-Bukhari in his Sahih, the book of Al-Jumma, the chapter of "whoever waited till she is buried", H6880, 9/5, and Muslim in his Sahih, the book of Hajj, the chapter of Prohibition of Makkah, H1355, 2/989.
- ²⁸ The Noble Quran (1:190).
- ²⁹ Abu Saad: Honor of the Prophet 4/519, Al-Baihaqi: Signs of Prophethood 5/32.
- ³⁰ Narrated by Ibn Zanjawaih in Amwal, H450, p. 291.
- ³¹ Narrated by Ibn abi Shaiba in the Musannaf, the book of Seyar, the chapter of "killing the wounded and tracing the runaway", H33951, 12/423
- ³² Abu Saad: Honor of the Prophet 4/519, and Al-Baihaqi: Signs of Prophethood 5/32.
- ³³ Narrated by Abu Dawoud in his Sunan, the book of Jihad, the chapter of "killing the prisoner without offering him entry into Islam", H2683, 3/59. Al-Albani said: a Sahih Hadeeth.
- ³⁴ Narrated by Al-Bukhari in his Sahih, the book of Prayer, the chapter of "Prayer in one piece of clothes convolving it", H357, 1/80.
- ³⁵ Al-Nawawi: Al-Nawawi Explanation of Sahih Muslim 12/130.
- ³⁶ Al-Ainy: Omdat Al-Qari' 4/63.
- ³⁷ The Noble Quran (76:8-9).
- ³⁸ Narrated by Al-Bukhari in his Sahih, the book of Al-Jumma, the chapter of "whoever waited till she is buried", H6880, 9/5, and Muslim in his Sahih, the book of Hajj, the chapter of Prohibition of Makkah, H1355, 2/989.
- ³⁹ Abu Saad: Honor of the Prophet 4/519, Al-Baihaqi: Signs of Prophethood 5/32.
- ⁴⁰ The Noble Quran (2:205).
- ⁴¹ The Noble Quran (7:56 & 85).
- ⁴² Narrated by Al-Bukhari in his Sahih, the book of Jihad, the chapter of Spy", H3007, 4/59.
- ⁴³ Abu Saad: Honor of the Prophet 4/519, Al-Baihaqi: Signs of Prophethood 5/32.
- ⁴⁴ Narrated by Al-Bukhari in his Sahih, the book of Prayer, the chapter of "Prayer in one piece of clothes convolving it", H357, 1/80.
- ⁴⁵ Narrated by Tabarani in the Major Mu'jam, H1021, 17/373.
- ⁴⁶ Ibn Hesham: the Prophetic Sirah 2/417.
- ⁴⁷ The Noble Quran (4:58).
- ⁴⁸ Al-Azraqi: Akhbar Makkah, 1/265.

- ⁴⁹ The Noble Quran (12: 92).
⁵⁰ Abu Saad: Honor of the Prophet 4/390.
⁵¹ Abu Saad: Honor of the Prophet 4/519, Al-Baihaqi: Signs of Prophethood 5/32.
⁵² The Noble Quran (3: 134).
⁵³ The Noble Quran (15: 85).
⁵⁴ Narrated by Al-Bukhari in his Sahih, the book of Al-Jumma, the chapter of “whoever waited till she is buried”, H6880, 9/5, and Muslim in his Sahih, the book of Hajj, the chapter of Prohibition of Makkah, H1355, 2/989.
⁵⁵ The Noble Quran (49: 13).
⁵⁶ Abu Al-Faraj: Al-Sirah Al-Halabeyya 3/140.

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