Chapter Two
REGULATION OF HOSTILITY AND TERRORISM

Each time they kindle the fire of war, God extinguishes it. They rush about the earth corrupting it. God does not love corrupters. (The Qur'ān, 5:64)

Islam is a religion of peace, but it waged a number of wars, is this, then a contradiction in terms? The creed came in existence in Mecca with the cardinal principle that. “There is no compulsion in religion”. Then followed a period of persecution?

An urgent need for up-dating the research into the subject to find answers to the current and future problems of war. It is in fact, the crying need of the day. It contains amongst numerous other characteristics, a message of hope and assurance for the people of this troubled world.

The (Qur'ān says in chapter 4:75)

“Whoever, kills a man, without this man having killed another man or without this man having spread disorder and tyrannical confusion in the land, he has, as if were destroyed the whole of humanity and whoever saves, an innocent life, he has acted as if he had put life into the whole of humanity.”

These are the words of such a Holy scripture which put strict checks and controls upon the use of illegal force to kill a man or spread mischief in the land then, how did war came into Islam?

HOW DID WAR COME TO ISLAM?

Life in Islam is sacred and to be respected and for its preservation it requires security. Islam therefore advocates peace as the fundamental principle of life and takes all the necessary measures to secure it and maintain it. But human society is not composed of angles, who cannot and do not do any wrong. There are individuals as well as groups (and societies) who are violent and aggressive and do not let others live in peace security and practice then faith as they wish. They outstrip all bounds of morality and ethics and encroach upon other people’s rights without a just cause and create a state of chaos in the country. Such individuals and societies have to be kept under restraint so that other individuals and societies may live in peace. In this state fighting becomes not only justifiable but obligatory.
on Muslims. This is how war entered into Islam as a logical step to self-protection and self-preservation as well as social protection.¹

WHAT OTHER RELIGIOUS SCRIPTURES SAY ABOUT WAR:
The Distant past: There was constant urge to enlarge dominion and control rich trading centres among the nations of ancient time irrespective of the religion they professed. This has gone on for more then 3000 years since the emergence of Phoenicians in European and African coasts of the Mediterranean Sea in about 2000 B.C. A part from amassing of wealth, the other common feature has been the wilful destruction of places of worship of the local population.²

ACCORDING TO JEWISH LITERATURE:
A very grim story indeed resulting from love of riches and religious bigotry is that Jews have invented and inserted in the revealed law of war, given by Allah to Moses. The Biblical concept of war, as concocted by them can be judged from the following few passages. Consider the following three verses found in the Old Testament in which the God of Israel is purportedly speaking in the first person:

"Now therefore kill every male among the little ones, and kill every woman that hath known man by lying with him. But all the women children, that have not known a man by lying with him, keep alive for yourselves." (Numbers 17:31); "Now go and attack Amalek, and utterly destroy all that they have, and do not spare them. But kill man and woman, infant and nursing child, ox and sheep, camel and donkey." (I Samuel 15:3). "The people of Samaria must bear their guilt, because they have rebelled against their God. They will fall by the sword; their little ones will be dashed to the ground, their pregnant women ripped open." (Hosca 13:16).

In Testament (II- Kings, 18, 19, and 25) we read the blood curdling details of the Israelites being permitted to inflict savageries on the Moalites:

"And ye shall smite every fenced city and every choice city and fell every good tree and stop all wells of water and mar every good piece of land with stones".

This was carried out...

"And they beat down the cities and on every good piece of land cast every man his stone, and filled it and they stopped all the wells of water, and felled all the good trees".

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The result of such teachings was that the Jews used to burn their prisoners alive and most barbarously mutilate the slain. The Greeks, the Romans and the Persians all practiced similar barbarities. Christianity affected no improvement in these frightful customs, for as late as the sixteenth century we read of the most horrible mutilations.\(^3\)

**DOES CHRISTIANITY PERMITS WAR:**

Christianity made a complete prohibition of war. In the *Gospel of Mathew*, Christ says:

> “You have heard that it hath been said, an eye for an eye, and a tooth for a tooth, But I say unto you that ye resist not evil. But whosoever shall smite thee on the right cheek turn to him the other also. And if any man will sue thee at the law and take away thy coat, let him have thy cloke also, and whosoever shall compel thee to go a mile, go with him twain” (St. Mathew, 5:38-41)

Similarly, those in favour of absolute prohibition of war rely on the words of Christ to peter:

> “Return your sword to its sheath, for all those who grab the sword, shall by the sword be slain”.

Some Christians sacrificed their lives in the cause of prohibiting war rather say the prohibition of the military professions itself. Other Christians made tremendous efforts to reconcile Biblical teaching and the necessities of the society, and their efforts resulted in a differentiation between permissible war and prohibited war. A war is fair and just according to them, when the prince declares it for ruler, provided his motive is truthful without greed or cruelty. In the fourth century, after having established a state under the leadership of Constantine, the Roman emperor had to use force in order to uproot paganism from the Roman Empire. This was declared as the “Just war”.\(^4\)

Dean Inge’s comment on this way of combating evil deserves careful consideration:

> “The Principle of non-resistance was laid down for a little flock in a hostile environment. But an organized society cannot abstain from the use of coercion. No one would suggest that a Christian government must not suppress a gang of criminals within its own borders, and if this is admitted, can
we doubt that it should defend itself against an invading enemy?\textsuperscript{5}

Despite of absolute prohibition of war in Christianity, the Romans had been no better than others, “they waged war for the sole purpose of subjugating surrounding nations. When they succeeded, they imposed their will on the people absolutely. The sacredness of treaties were unknown; pacts were made and broken, just as convenience dictated.....the introduction of Christianity made little or no change in the views entertained by its professors concerning international obligations. War was as inhuman and as exterminating as before. Christianity did not propose to deal with international morality and so left its followers groping in the dark.\textsuperscript{6}

A British historian Karen Armstrong, a former nun and an expert on Middle East history, examines in her book *Holy war*, the history of the three divine religions, she makes the following comments:

“The word ‘Islam’ comes from the same Arabic root as the word ‘peace’ and the Koran condemns war as an abnormal state of affairs opposed to God’s will......Islam does not justify a total aggressive war of extermination....Islam recognizes that war is inevitable and sometimes a positive duty in order to end oppression and suffering. The Koran teaches that war must be limited and be conducted in as humane as possible. Mohammad had to fight not only the Meccans but also the Jewish tribes in the area and Christian tribes in Syria who planned on offensive against him in alliance with the Jews. Yet this did not make Mohammad denounce the people of the Book. His Muslims were forced to defend themselves but they were not fighting the ‘Holy war’ against the religion of their enemies. When Mohammad sent his freed man Zaid against the Christians at the head of a Muslim army, he told them to fight in the cause of God bravely but humanely. They must not molest priests, monks and nuns or the weak and helpless people who were unable to fight. There must be no massacre of civilians nor should they cut down a single tree nor pull down any buildings”.\textsuperscript{7}

WAR IN THE VIEW OF VEDA:

The Aryans when poised for invasion of Indian plains were praying to every deity to destroy those defending their hearths and homes. *Rig Veda* was most vocal in this respect.
“O Indra, fetch such riches which should bestow satisfaction, the eternal happiness of the conqueror which should aid us on, and help us to finish our enemies.

“O bright fire on which we sprinkle holy oil burn our enemies who are being guarded by in holy spirits.

“O Meenoo, overcome those who oppose, break them, continue killing them, trample the enemies”

“O fires you whose flames are rising like itself, spread along in our front, burn all that does wrong to us, O fire diety, rise and disperse those who oppose us and demonstrate your heavenly powers.”

The object of war according to Manu appears to be clean from passages of Daram Shastra:

“Those rulers of the world whose object is to defeat their opponents, kill them and who make war with all their might to paradise after their death (7:89). Wise people want to extend their territories (7:109). A king (who follows the religion) has the duty of conquering lands and of never avoiding war (10:119)”

War to the Aryans appears to have had only one object which was the extensions of territories and spreading the religion of Brahmanism.

Although evangelical elements in the West are quick to point to the “violent” character of the Qur’an, no analogous verse, which explicitly authorizes that the killing of women and children, may be found anywhere in the Qur’an. The purpose in invoking these passages is not to suggest that Jewish or Christian or Vedic doctrine authorizes indiscriminate violence, but rather to highlight the gross duplicity that often exists among Islam’s modern antagonists who insist upon a jaundiced reading of Islamic scripture. Islam respects human life and its intrinsic values but when human life is threatened with extinction the forces of tyranny and oppression are to be resisted till the dignity and freedom of life is restored. In this context killing for a cause becomes a virtue. Faltering would be a fault, for failure to fight would not only wipe out your own individual life but that of the entire human race.
ISLAMIC GUIDELINES ABOUT WAR:

1. The cause of war:

   War, a state of usually open and declared armed hostile conflict, between rival political factions or nations. War between nation states may be fought to gain reparation for a particular injury, to acquire a particular territory or advantage to gain recognition of a particular claim, or to achieve the extermination or unconditional surrender of the enemy. Ibn Khaldun observes in the *Muqaddima*, his celebrated introduction to a history of the world composed at the end of the fourteenth century that “wars and different kinds of fighting have always occurred in the world since God created it”. War is endemic to human existence, he writes, “something natural among human beings. No nation and no race are free from it”.

   According to Bernard Brodie, the causes of war were traceable to economic, political and psychological factors. Wars have also been waged for the sake of expansion, succession, independence, revolution and liberation. Actually the causes suffer from lack of uniformity; different wars have different causes and it changes with the change and development in the human society. It covers a wide spectrum ranging from boredom and frustration to the realization of vital national interests. There is no internationally acceptable law, tribunal or objective criterion to determine the justness or otherwise of a cause of war. Each nation has its own values and standards for the formulations of its national interests and consequently its own cause of war.

   Analysing the cause of the early Muslims wars, Quincy Wright mentions in his book *A study of war* attributes them to the harassment and pressure to which Arabia was subjected by her neighbours, the releases of surplus energy, economic difficulties, over population, the need to preserve internal unity, the traditional war mindedness of the Arabs, and the doctrine of Jihad. He looks upon the crusades as the natural outcome of the renewed enthusiasm of Christianity and its recently developed ideology of just wars, political ambition and economic difficulties.

   In Arabia, Rome, Persia and in other parts of the world, human beings were killed, burnt or buried alive, and slaughtered like animals or tortured to death for the sake of fun, sport, pleasure, custom, tradition and superstition. Such merciless killings were resorted to without any fear of accountability before law. Islam rose

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to denounce these inhuman practices, declared human life sacred and issued strict commands for its respect, preservation and protection the taking of human life except for reasons of law and justice and made all unlawful deaths accountable and punishable both in this world and in the hereinafter.\textsuperscript{14}

The first Qur'\'\textit{\'an}ic revelation, on the subject, that granted Muslims the permission to fight.

"To those against whom war is made permission is given (to fight) because they are wronged and verily, Allah is most powerful for their aid (they are) those who have been expelled from their homes in defiance of right (for no cause) except that they say our lord is Allah" (Hajj: 39-40)

After the grant of permission to fight in self-defence, a subsequent verse converts this permission to fight into an injunction. The rationale given for using armed force is quite explicit:

"Tumult and oppression (fitna) is worse than killing" (2: 191)

Another verse in particular offers an implicit challenge to an ethical position based on the renunciation of all violence.

"Fighting is prescribed for you, even though it be hateful to you; but it may well be that you hate something that is in fact good for you, and that you love a thing that is in fact bad for you: and God knows, whereas you do not" (2:216)

This revelation introduced new elements to the permissible cause of war. Fighting was to be in the cause of God. It was to be undertaken only against those who fought the Muslims First. During the conduct of war, the limits specified by God were not be transgressed; those who did so were to incur divine displeasure. The Islamic discourse on war and peace begins from the priori assumption that some type of war are permissible- indeed, required by God and that all other forms of violence are therefore, forbidden.\textsuperscript{15}

At another place Qur'\'\textit{\'an} addresses the Muslims thus:

"And why should you not fight in the cause of Allah, and of those who being weak and ill-treated (and oppressed) men woman and children, whose cry is our lord: rescue us from this town whose people are oppressors and raise for us from thee one who will protect and help us". (4: 75).
2. **The object of war:**

The object of war in the Qur’anic perspective is to obtain conditions of peace, justice and faith. To do so, it is essential to destroy the forces of oppression and persecution. In the initial states of its realization, the holy Qur’an made generous concessions to the adversaries to terminate the state of war and invited them to contribute in creating conditions of harmony and peace. The law of equality and reciprocity was observed in dealing with treaties and alliances. But as the enemy went on rejecting one divine concession after another, it became necessary to adopt a harder line.

Muhammad Hamidullah quoted the words of Mawardi, stated:

"The aim of a fight with rebels is to prevent them from disturbing peace and order, not to kill them and exterminate them."

A declaration of immunity from the treaty obligations was pronounced to those who played treachery with the Muslims but strict commands were issued to fulfil the treaty obligations with others who remained loyal and true to them. The doors of compassion, forgiveness and mercy were always kept open and those offering genuine repentance were forgiven. In the final stage the pagans were called upon to pay the ‘Jizya as a token’ of their willing submission. Those who paid the Jizya were given freedom of religion and the protection of the Muslims state.

3. **Nature & Dimensions of war:**

The Qur’anic philosophy of war provides answers to such questions that are bound to agitate the human mind. It recognizes the physical and psychological strains of warfare and provides an effective antidote to them, the fountain head of the Qur’anic dimensions of war lies in the fact that it would be only waged for the cause of God and with the object of imposing conditions of Justice and peace. It would be a call for the deliverance of the weak, the ill-treated and those persecuted from the forces of tyranny and oppression. It was the cause of the humanity in general and not that of the Muslims community in particular. Saving the places of worship irrespective of religious discrimination and protecting mankind from mischief and bloodshed were causes with a truly universal and humanitarian significance and application. There was no semblance of any kind of adventurism,
militarism, fanaticism, national interests, personal motives and economic compulsion in the whole affair.

To those who fight for this noblest heavenly cause, the Book promises handsome heavenly assistance. They conferred upon the Muslim armies a complete and total protection and immunity against all the psychological and moral attacks that the enemy could bring to bear upon them. They enable them to bear the pains of war willingly and resolutely with the element of faith and belief in the theories of Qur'ān.\textsuperscript{18}

Stanley Lane-Poole admitted that,

“there must be something in the religion itself to explain its persistence and spread, and to account its persistent hold over so large a proportion of the dwellers on earth.....Islam has stirred an enthusiasm that has never been surpassed. Islam has had its martyrs, its recluses, who have renounced all that life offered and have accepted death with a smile for the sake of the faith that was in them”.\textsuperscript{19}

4. The ethics of war:

The Qur'ānic philosophy of war is, for the better part, a philosophy of checks and restraints on the use of ‘force’ in interstate relations. The very Qur'ānic command that directed the Muslims to go to war with the pagans also bade them not to exceed limits.

“Fight in the cause of Allah those who fight you but do not transgress limits for Allah love not transgressors” (2: 190).

Fighting in Arabia was prohibited during the four sacred months of Rajab, Ziq'aad, Zil-Haj and Muharram and the Holy Qur'ān issued directions for the observance of this custom. At many times Qur'ān speaks of the importance attached to tolerance and forbearance.\textsuperscript{20}

“They ask you concerning fighting in the sacred months say, Fighting therein is a great (transgression) but a greater (transgression) in the sight of Allah is to prevent mankind from following the way of Allah, to disbelieve in Him, to prevent access to the Holy Mosque and to drive out its inhabitants, and Fitnah is worse than killing” (2:217)
Not content with these restrictions alone the book imposed a total ban on the inhuman methods of warfare practiced in Arabia and elsewhere, prior to Islam. Instructions issued on the subject by the holy Prophet and the early caliphs.

- All cruel and torturous ways of killing the enemy are prohibited
- The killing of women, minors, servants and slaves who might accompany their masters in war but do not take part in the actual fighting is also not allowed.
- The Muslims armies must also spare the blind, the monks, the hermits, the old, the physically deformed and the insane or the mentally deficient.
- Forbidden also is the decapitation of the prisoners of war; the mutilation of men and beasts, treachery and perfidy.
- Devastation and destruction of harvests
- Excesses and wickedness; and adultery and fornication with captive women
- The killing of enemy hostages and resorting to massacre to vanquish an enemy is prohibited.
- The killing of parents except in absolute self-defense; and the killing of those peasants, traders, merchants, contractors and the like who do not take part in actual fighting is also not allowed.\(^{21}\)

A letter written by the Patriarch to the bishop of Persia after its conquest is most striking, in the sense that it depicts the toleration and compassion shown by Muslim rulers to the people of the Book in the words of a Christian:

> "The Arabs to whom God has given at this time the Government of the world......do not persecute the Christian religion. Indeed they favour it, honour our priests and the saints of the Lord and confer benefits on churches and monasteries."\(^{22}\)

**FORM AND LIMITS OF DEFENSIVE WAR:**

1. **War against aggression:** The following main principles of war can be deduced from the verses of the Qur’an (22:39-40) and 2:190-192).
   a. Muslims are allowed to fight when they are attacked and persecuted by other people.
   b. Muslims must fight against people who take their home, usurp their rights and drive them away from their land and properties.
c. Muslims are allowed to wage war in order to win religious freedom from those people, who tyrannize them on account of their religious beliefs and harass them merely because they are Muslims.

d. They should fight and try to regain the lands from which they have been driven out in which their dominant position has been destroyed; and whenever they regain power, they must drive out their enemies from places from which they were driven out by them.23

2. **Protection of the way of truth:** The Muslims are told to fight against those who keep them from the way of God (that is practicing their religion) because doing so, the latter are committing a crime (8:36) (9:47) (4:1-4) these are the verses in reference of protection of the way of truth.24

3. **Deceit and breaking of treaties:** The following general principle can be deducted from these verses (8:55-58) (9:10-12) of the Qur’an.

a. Muslims must wage war against people who make treaties with the Muslim agreeing to obey their law and then rebel against the Muslim states.

b. People who keep their treaty with the Muslims but whose attitude is so hostile and unfriendly that there is always a danger from them to the Muslims and their faith. In all such cases, Muslims must openly break their treaty with them and inform them about this and then take proper action against them.

c. People who repeatedly break their treaties with the Muslims so that their treaties lose all significance and who ignore all rules of morality and humanity and damaging the interest of the Muslims. Muslims are commanded to declare open war on them until they repent and submit to the Islamic state.25

4. **Destruction of internal enemies:** In addition to open enemies from outside, there are always people within the state, who pretend to be friendly but at the same time, try their best to destroy the very roots of the state. These are the hypocrites who have not the courage to come into the open but engage themselves in constant intrigues against the
state with its enemies. There are the verses of *Qurʾān* (9:75) (9:91) in support of the above point.²⁶

5. **Maintenance and preservation of peace:** There is another type of people who may be inside or outside the Islamic state but who always create trouble; they organize robberies, murder, plunder and generally disturb the peace. They may also try to overthrow the Islamic state with violence. Such people must be caught and punished (5:336-37).²⁷

6. **Assistance of oppressed Muslims:** It is also the duty of Islamic state to help any Muslim suffering under the oppression of Non-Muslims. This is also mentioned in the *Qurʾān* (4:75).²⁸,²⁹

A study of all these forms of defensive wars shows that it must work hard to bring the whole of mankind to a system of life in which goodness, virtue and justice prevail. While the forces of evil, injustice and corruptions are discouraged. Thus Islam presents a high standard of collective goodness for mankind, free from narrow national, racial, sectional or linguistic limitations.

In an article “Interpreting the Islamic Ethics of war and peace” the author focuses on the use of certain types of weapon like nuclear, chemical and biological weapons and its use relate to Islamic ethics of war

“This is an astonishing fact in the light of the development of nuclear technology by several leading Muslim specialists in international law; I have found a great deal of ambivalence on the subject. Most Scholars cite the *Qurʾānic* verse “Against them make ready your strength to the utmost of your power, including steeds of war, to strike terror into (the hearts of) the enemies, of Allah and your enemies and others besides, whom you may not know but whom Allah does know.”³⁰

**PRISONERS OF WAR:**

Prisoners usually taken when a battle is at its height and there is danger that rage may lead the victorious warriors to harm those who have been defeated in order to take revenge. The holy Prophet said

“You are recommended to treat your captives kindly”. (Tabariy Hist.; I. 1337-38)³¹
More specific commandments on the ethics of war and treatment of prisoners are contained in the fifth verse of the forty-seventh chapter of the Qur'an. This comprehensive verse can be paraphrased as follows:

"When engaged in a regular battle, it should be fought bravely and relentlessly. War can be continued till peace and freedom of conscience are established. Prisoners are to be taken judiciously. Free men cannot be deprived of their liberty without a just and reasonable cause. When war is over, prisoners should be released as an act of favour or on taking ransom or by negotiating a mutual exchange."

Medical help was a right to all men in spite of religion or creed and this was also extended to those amongst enemy. An example well known in the west is that of Salahuddin securing medical help to his opponent, Richard- The lion heart of England, Who was seriously ill during the crusades. Salahuddin sent him his own doctor and personally supervised Richard’s treatment until he became well.32

In quoting this particular example, one dare say that such an attitude was quite different to the behaviour characterizing the invading crusades when the crusaders entered Jerusalem on July 15th 1099, they slaughtered 70,000 Muslims including women, children and old men. They broke children’s skull by knocking them against the wall; threw babies from roof tops, roasted men over fire and cut up women’s stomachs to see if they had swallowed gold. This description was given by Gibbon, a Christian writer and commented on by Ludbig who wondered how come after those horrible atrocities they prayed at the burial place of Christ for blessing and for forgiveness.33

Differentiating the war activity of the Muslims and Christians, a western Scholar of Islamic learning opines:

"When we condemn the Mohammedan wars, let us at least remember what of good they brought with them. Nor is Mohammedanism the only religion which has tried to propagate itself by the sword. It is true of course that a holy war waged by the Christians is the direct contradiction of the spirit of their Founder, while one waged by Mohammedans is in accordance with both the practice and the precept of the Prophet, and so far there is no parallel at all between the two religion".34
Prisoners of war were treated in different ways by the Prophet. There were occasions when he released them unconditionally; there were occasions when they were released on payment of ransom. Some were asked to teach some Muslim children in exchange and some were set free. In the case of civilian population, the conqueror had a right in theory to enslave them, but it was never done and they were offered protection as full-fledged citizens of the state in lieu of the payment of nominal tax 40 dirham and 24 dirham on the wealthy adults according to their income.

“And they feed, for the love of God, the destitute, the orphan and the captive, saying, ‘we feed you for the sake of God alone, no reward do we desire from you, nor thanks. We only fear a day distressful wrath from the side of our lord. (Qur’an 76:8-10)

SPOILS OF WAR:

Prior to Islam, war was accompanied by widespread and indiscriminate looting of the vanquished party by the victorious army. The modern day understanding that in a war situation, the property of ordinary citizens cannot, or should not, be touched is in line with Islamic teachings. Afzalur Rahman explains:

“One of the greatest contributions of Muhammad to the civilization of mankind was his civilized laws of war. He purified the uncivil and barbaric war customs and traditions of nations and replaces them by humane, just and benevolent international laws. In fact, he codified the international law relating to war”. 37

The Prophet clearly forbade indiscriminate looting in the course of war. The spoils of war include only that wealth which is the property of the enemy state or of combatant engaged in fighting against Muslims and which falls into the hands of Muslims during the course of war. After the conquest of Iraq, the caliph Umar wrote to the head of the conquering Muslim army, Sa’ad ibn Abi Waqqas, instructing him that the animals and the other wealth that the Muslim army had captured should be divided into five parts, four of which were to be distributed among the soldiers, the fifth to be set apart for the government. He also added that the lands should be left with their original cultivators so that the proceeds of the taxes levied on them could be used to pay the salaries of government officials.
When in 641 C.E., Egypt was conquered by Muslim army, besides agricultural land, the other personal properties, both movable and immovable, of the general non-Muslim population, including their homes, were unanimously considered to remain vested in their possession.  

To sum up with the issue of booty taken in battle, there are some clear points mentioned in the Qur'an which is explained in the translation and commentary made by Abdullah Yusuf Ali.

- The first point as regards to booty taken in battle is that it should never be our aim in war. it is only an adventitious circumstance, a sort of windfall.
- Secondly no soldiers or troop has any inherit right to it. A righteous war is a community affair, and any accessions resulting from it belong to God, or the community or cause.
- Thirdly, certain equitable principles of division should be laid down to check human greed and selfishness. A fifth share goes to the commander, and he can use it at his discretion; for his own expenses, and for the relief of the poor and suffering, and the orphans and widows (viii: 41). The remainder was divided, according to the Prophet's practice, not only among those who were actually in the fight physically, but all who were in the enterprise, young and old, provided they loyally did some duty assigned to them.
- Fourthly, there should be no dispute, as they interfere with internal discipline and harmony. These principles are followed in the best modern practice of civilized nations. All acquisitions of war belong absolutely to the Sovereign as representing the common wealth. In the distribution of booty not only the actual captors but also the "joint captors" and the "constructive captors" share.

**SLAVES; A KIND OF BOOTY OF WAR:**

Islam does not insist on taking prisoners of war as slaves and therefore set them free as either a favour or in return for a ransom when the war is over, as evident from the verse:

> And therefore, set them free as either a favour or in return for a ransom when the war is over (47:4)
The sermon delivered by the Prophet (SAW) on the occasion of farewell pilgrimage or Hajj. “

And your slaves”! See that ye feed them with such food as ye eat yourself, and clothe them with the stuff ye wear and if they commit a fault which ye are not inclined to forgive, and then part them, for they are the servants of the Lord, are not to be harshly treated.43

BRIEF REVIEW OF BATTLES FOUGHT BY LAST PROPHET OF ISLAM: AN EXAMPLE FOR WHOLE OF HUMANITY

It would be appropriate to study briefly some occasions for example on which last Prophet of Islam marched to the battlefield. How the holy Prophet of Islam had been able to manage all things so properly at a time when he had meagre resources and limited manpower? History has shown us his time both in difficult moments of life and in success. He did not avenge wrongs done to him but pardoned his enemies and established the supremacy of the law of Allah. Allah mentioned him in the Qur’ān as “Witness against mankind.” (Al-Qur’ān 2:143).

The prophet began his mission first by himself obeying the law of God and then by inviting others to join with him and enter the fold of Islam. It was an open invitation to all given in a peaceful and friendly manner, but people opposed him and gradually this opposition became violent and fierce.

The Prophet and his companions suffered persecution at the hands of the Quraish for 13 years, until they were forced to leave their property, their homes, their relatives and above all the Kabah and seek refuge in another town called Medina, merely to protect their faith and practice it freely. But the Quraish did not let them live in peace and started a series of raids and attacks on them in order to destroy them and their and their faith. Under these circumstances they were given permission to fight back and defend themselves and their faith from the aggressive designs of the enemy.44

Permission granted for war:

“To those against whom war is made, permission is given (to fight) because they are wronged and verily God is most powerful for their aid. (They are) those who have been expelled from their homes in defiance of right (for no cause) except that they say our lord is God.” “Did not God check one set of people by means of another, there would surely have been
pulled down monasteries, churches, synagogues and mosques in which the name of God is commemorated in abundant measure” “God will certainly aid those who aid his cause for verily God is full of strength, Exalted in might (able to enforce His will). (They are) those who, if we establish them in the land, established regular prayer and given regular charity, enjoin the right and forbid wrong: with God rests the end (and decision) of (all) affairs.” (22: 39-41).

Threats of conflicts:

The Meccans were quick to react to his having been successful in establishing himself away from Mecca. There also the Prophet faced opposition from two fronts – one from Quraish and other from Jews who always tried to sabotage and undermine the Islamic state. On this occasion in the second year after migration Allah permitted Muslims to take up weapons.45

The first battle was fought when Prophet was fifty-four year old. And although it is clear that he personally conducted several key campaigns afterward, the combined evidence of the sources indicated that he remained a reluctant warrior. On several occasions he urged the use of nonviolent means or sought an early termination of hostilities, often he face of stiff opposition from his companions. At the same time, consonant with Qur’anic revelation, he seems to have accepted an unavoidable fighting in defence of what he perceived to be Muslim interest. The essence of his approach to war is crystallized in the following words ascribed to him:

‘O people! Do not wish to meet the enemy, and ask God for safety, but when you face the enemy, be patient, and remember that paradise is under the shade of swords’.46

Battle of Badr: it was the first battle fought by Prophet in the second year of hijrah, the chiefs of Makkah attacked Madinah with one thousand armed men. The Muslim could gather 313 men. But with the help of Allah the enemies were defeated.47

Battle of Uhud: The unbelievers of Makkah again attacked Medina in the following year with 3,000 fully armed men in order to avenge their previous year’s defeat. The holy prophet came out with 700 men. Here victory was turned into defeat through the greed of some men who disobeyed the command of the messenger of God.48
Battle of Ahzab: In the 5th year of the Hijrah, the chiefs of Makkah collected an army of about 10,000 men from all over Arabia and marched on Madinah. The Muslims decided to defend the town. They dug trenches in the open approaches. The siege of Madinah lasted for about four weeks but one night the enemy, stricken by cold and terror from a severe storm, withdrew in utter confusion. The Makkans left the place. This was the end of the aggressive power of the chiefs of Makkah.49

Treaty of Hudaibiyah: In the sixth year of Hijrah, Muhammad (PBUH), with his 1,400 companions set out to Makkah for the Pilgrimage. But the Makkkan leader had not allowed them to do the pilgrimage that year and decided to negotiate on treaty of peace with Muhammad. The terms were very harsh and against the interests of the Muslims and naturally many Muslims felt humiliated and were very angry but the holy Prophet accepted it with the command of God.

Conquest of Makkah: The treaty of Hudaibiyah gave the Muslims some peace and security and they had the opportunity to organize the Islamic state of Madinah. But the peace was short lived and the treaty was broken by the chiefs of Makkah. Prophet marched on Makkah with an army of 10,000 Muslims in the eight year of hijrah. The Makkans did not offer any resistance and the city of Makkah was captured without any fighting. They holy Prophet announced a general amnesty for all his enemies and treated the people of Makkah with generosity and magnanimity.50

Battle of Hunain: The tribes of Hawazin and Thaqif along with many of the friendly tribes marched on Makkah and encamped in the valley of Hunain. They holy Prophet on hearing of the movement of these tribes marched on Hunain with 12,000 Muslims. The enemies were very skilled in archery and occupied very suitable places on the hills on both sides of a narrow valley. This unexpected attack broke Muslims very much and there was panic and confusion in the Muslims army. Anyhow with the spirit of spirituality, the enemies were defeated and Muslims won the day with the help of God.51

Relations with Jews: The holy Prophet had, when he first came to Madinah, made agreements with the Jewish tribes to defend the city from foreign invaders and to maintain peace and order. But instead of defending it from its enemies, the Jews tried their best to stab the Muslims in the back. They organized a campaign of
slander against Islam and its followers. So the Holy prophet dealt with the tribe and shifted Banu Qaynuqah, Banu Qurayzah and Banu Nadir outside Madinah.

**Fall of Khayber:** The Jewish tribes which went to Khayber continued their hostilities and intrigues against Muslims. They had been actively supporting the Makkans against the Muslims all these years. Now the Prophet was forced to punish them. After a siege of twenty days and a hard struggle, the Jewish castles were conquered by the Muslims. They were allowed to stay in Khayber on the condition that they would live in peace and cultivate their lands and given half the produce to the Muslims.

**March on Tabuk:** Tabuk is a place about 500 km to the north of Madinah. The Romans were planning to attack Medinah with the assistance of the chiefs of Ghassan, Lakham and Jazam. The Holy Prophet as a precautionary measure decided to meet this impending menace from imperial Rome. He marched with 30,000 men towards Tabuk but the enemy did not arrive. He stayed there for about twenty days and made peace with tribal chiefs in that region. 

This was the last battle fought by Prophet of Islam. May God’s peace and blessings be upon him and his followers. From these events it can be gauged how peacefully the Prophet dealt with the situations as they affected the Prophet and his relationship with his opponents, especially on the occasion of treaty of Hudaibiyah and conquest of Mecca. On both these occasions the Prophet rejected violence and opted for an alternative. The treaty of Hudaibiyah even included a few clauses which were rather humiliating and unpalatable to the Prophet’s companions. While conquering Mecca no violence was envisaged and even the bitterest enemies were pardoned and given refuge in secured homes and safe places. So there was neither violence nor fighting. Yet the essential requisites of jihad were maintained.

Nevertheless, Muslims faithfully observed the terms of treaty and it was the Makkans in the first instances who violate the terms of treaty and thus paved way for an attack on Mecca and its conquest by Muslims. All the major wars were fought when the Makkan infidels used to infiltrate to demolish the citadel of Islam.  

Rom Landau- a non-Muslim Scholar highlighting the outstanding features of the Islamic war shows his straightforward concern, saying:
"Undoubtedly the European medieval mind regarded the crusade as Holy wars for a Holy cause. In Islam, no general jihad was declared against the crusaders, and the caliphate, as head of secular life, did not direct the wars.\textsuperscript{54}

**ISLAM AND THE INTERNATIONAL LAW CONCERNING WARS:**

Islam permits war but keeps it within the strict rules and limits. It has set down certain rules, the most merciful and considerate to people and required to observe them. Such rules go in line with the principle of international law in many ways. The principle of international law lacks divine authority that ensures putting them into practical effect. Maududi remarks with regard to the issue of sanctity of the truth and cause of creating the law and order problem. He observes:

> "It is manifestation of the Almighty’s wisdom that He ordained the law of retaliation along with the principles safeguarding the sanctity of the soul. In this way Islam stresses the use of the power which is duly responsible for the protection of the soul.\textsuperscript{55}"

The *Qur’ānic* rules, though they aim at justice and mercy have the faith of Muslims as an authority to ensure them being carried out.

(a) International law determines that the citizens who are not regular member of any army are not considered as fighters and hence should not be inflicted with harm, only regular soldiers (or armed men engaged in war) are as fighters. For the *Qur’ān* say’s: Permission to fight in the cause of God against those who attack you but do not aggress as God does not like aggressors (*Qur’ān* 2:19).

(b) International law forbids killing the wounded, torturing the enemy, destroying them by treachery or deception or using bombs, missiles or weapons which add to their torture. It also prohibits the poisoning of wells, rivers and foods; it recommends that the corpses of the dead be respected and prohibit any severity or mayhem be inflicted on them, regardless of the nationality of dead people. Islam applies the same principles, for when the Prophet appointed an army or troops leader, he instructed him to follow the *Qur’ānic* laws closely not be the aggressor or transgress the limits.
International law prescribes a number of principles regarding the proper treatment of captives. They should not be killed, injured, ill-treated or humiliated if they surrender or if they are deprived of their freedom.\(^{56}\)

Islam also urges the polite treatment of captives in general and God commands the righteous that treats such people hospitably saying:

"They donate their favourite food to the poor, the orphan, and the captive by saying that we feed you for the sakes of God; we expect no reward from you or thanks" (76: 8-9)

**GENEVA CONVENTION:**

The modern ethics of war are embodied in the Geneva Convention, first convened in 1864, through the efforts of Jean Henry Dunant, a Swiss citizen from Geneva. The Geneva Convention enjoys wide international acceptance today. The three basic principles of the convention are Humanity, Solidarity and Universality. It provides for the rights of the sick, the wounded, the unarmed civilians and other humanitarian issues including the prisoners of war.\(^{57}\)

Despite the Geneva Convention however nothing could prevent the Germans from launching a chemical attack against the allies in the battle of Pyres in the First World War.\(^{58}\) In the closing years of the Second World War the allies’ subjected Germany to incessant aerial bombing, killing millions of innocent children and woman and destroying non-military targets.\(^{59}\) The nuclear attack on Hiroshima and Nagasaki broke all the previous records of inhuman and merciless human massacre.\(^{60}\) More recently, USA attacked Afghanistan and Iraq in the name of “War on terror”.

In his book, *Islam: The Religion and the People*, Bernard Lewis, Professor Emeritus at Princeton University and among the most influential Western scholar on Islam in the past half-century writes:

"At no time did the (Muslim) jurist approve of terrorism. Nor indeed is there any evidence of the use of terrorism (in Islamic tradition). Muslims are commanded not to kill women, children, or the aged, not to torture or otherwise ill-treat prisoners, to give fair warning of the opening of hostilities, and to honour agreements...The emergence of the now widespread terrorism practice of suicide bombing is a development of the 20th century. It has no antecedents in Islamic history, and no justification in terms of Islamic theology, law, or tradition. It is a pity that those who practice this form of terrorism are not better acquainted
with their own religion, and with the culture that grew up under the auspices of that religion.”

Furthermore, writing in the Wall Street Journal shortly after September 11th, Lewis states:

“The laws of Jihad categorically preclude wanton and indiscriminate slaughter. The warriors in the holy war are urged not to harm non-combatants, women and children, “unless they attack you first.”...A point on which they insist is the need for a clear declaration of war before beginning hostilities, and for proper warning before resuming hostilities after a truce. What the classical jurists of Islam never remotely considered is the kind of unprovoked, unannounced mass slaughter of uninvolved civil populations that we saw in New York...For this there is no precedent and no authority in Islam. Indeed it is difficult to find precedents even in the rich annals of human wickedness.”

It must work hard to bring the whole of mankind in to a system of life in which goodness, virtue and justice prevails. While the forces of evil, injustice and corruptions are discouraged. Thus Islam presents a high standard of collective goodness for mankind, free from narrow national, racial, sectional or linguistic limitations. The Qurʾān explained it in other words:

“These are the people who if we give them power in the land, will establish prayer, pay regular zakat, enjoin what is right and forbid what is evil”(22; 41).
Notes and References:

3. Ibid, p-123.
9. The Vedanta-sutras with Shri Bhashya of Ramanujacharya, Translated into English by Mr. Ranyacharya & Varadaraja, Vol. 3rd The educational publishing Co.
22. Fred Aprim, "The A to Z of the ancient Chaldeans and their relation to modern Chaldeans" as seen on the website http://www.atour.com/education/200010219.html retrieved on 2-4-2010
26. Ibid, pp 70-75
27. Ibid, pp 75-77
28. Ibid, pp 77-80
31. Tabarisy, Hist I. 1337- 38 as seen in Hamidullah, Muslim conduct of State" p. 207.
35. Muhammad Hamidullah, Muslim Conduct of State, Lahore, 1945, p. 207.
38. Maulana Yahya Nomani *Al Jihad*, Lucknow: al mahadul aali arrasalatul isliamiya, p. 91
39. Ibid, pp. 91-92
40. Ibid, pp. 95-96
49. Ibid, pp. 95-96
50. Ibid, p. 97.
51. Ibid, pp. 97-99
52. Ibid, pp. 99-100


62. Ibid, also see https://secure.wsj-asia.com/subscriptions1/home.php?source=PWSXX2B1D1A&package=a