

# Rights Of Enemies In War

Before the advent of Islam the world was ignorant of the concept of humane and decent rules of war. The West first began to develop this concept through the works of the seventeenth century thinker, Grotius. But the nineteenth century. Prior to this all forms of barbarism and savagery were perpetrated in war, and the rights of those in a war were not even recognized, let alone respected.

The 'laws' which were framed in this field during the nineteenth century or over the following period up to the present day cannot be called agreements, because nations do not regard them as bindings unless, of civilized laws imply that if our enemies respect them, we shall also respect them but if they ignore them then we shall ignore them, too. Arrangements which depend on mutual acceptability cannot be called 'laws'. This is the reason why so-called 'international law' has been constantly flouted and ignored.

## Law Of War And Peace In Islam

The rules which have been framed by Islam to make war civilized and humane are in the nature of law, because they are the injunctions of Allah and His prophet (blessings of Allah and peace be upon him) which are followed by Muslims in all circumstances, irrespective of the behavior of the enemy. It would be instructive to research into how well the West has adopted the laws of war given by Islam fourteen hundred years ago; and, even after their adoption, how well the West has managed to attain those heights of civilized and human warfare behaviour which Muslims have reached through the blessings of Islam.

Western writers have often asserted that the Prophet (blessings of Allah and peace be upon him) borrowed his teachings from the Jews and the Christians. It is sufficient here to recommend the reader to refer to the Bible\* so that he can see what methods of war are recommended by the sacred Book of these Western claimants to civilization and culture.

We have examined in some detail the basic human rights that Islam has conferred on man. Let us now look at the rights and obligations Islam recognizes for any enemy.

## The Rights Of Non-Combatants

Islam has drawn a clear distinction between combatants and non-combatants in any enemy country. As far as the non-combatant population it concerned  $\frac{3}{4}$  women, children, the old and the infirm  $\frac{1}{4}$  the instructions of the Prophet are as follows: "Do not kill any old person, any child or any woman" (AbuDawood). "Do not kill the monks in monasteries" and "Do not kill the people who are sitting in places of worship" (*Musnad* of Ibn Hanbal).

During a war, the prophet saw the corpse of a woman lying on the ground and observed: "She was not fighting. How then came she to be killed?" From this statement of the Prophet the exegetists and jurists have drawn the principle that those who are non-combatants should not be killed during or after a war.

## The Rights Of Combatants

Now let us see what rights Islam has conferred on the combatants.

### 1. *Torture by fire*

In the *Hadith* there is a saying of the Prophet that: "Punishment by fire does not behoove anyone except the Master of the Fire" (AbuDawood). The injunction deduced from this saying is that the adversary should not be burnt alive.

### 2. *Protection of the wounded*

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### 3. *Prisoners of war should not be slain*

"No prisoner should be put to the sword"  $\frac{3}{4}$  a very clear and unequivocal instruction given by the Prophet.

### 4. *No-one should be tied to be killed*

"The Prophet has prohibited the killing of anyone who is tied or is in captivity."

#### 5. *No looting and destruction in the enemy's country*

Muslims have been instructed by the Prophet not to pillage or plunder or destroy residential areas, nor harm the property of anyone not fighting. It has been narrated in the *Hadith*: "The Prophet has prohibited the Believers from loot and plunder" (Bukhari, AbuDawood). His injunction is: "The loot is no more lawful than the carrion" (AbuDawood). AbuBakr Siddeeq used to tell soldiers on their way to war: "Do not destroy the villages and towns, do not spoil the cultivated fields and gardens, and do not slaughter the cattle."

Booty of war from the battleground is altogether different. It consists of the wealth, provisions and equipment captured from the camps and military headquarters of the combatant armies and may legitimately be appropriated.

#### 6. *Sanctity of property*

Muslims have been prohibited from taking anything from the general public of a conquered country without paying for it. If the Muslim army occupies an area of the enemy country, it does not have the right to use the things belonging to the people without their consent. If the army needs anything, it should purchase it from the local population or should obtain permission from the owners. AbuBakr Siddeeq used to tell Muslim armies being dispatched to the battle-from that they should not even use the milk of the cattle without the permission of the owners.

#### 7. *Sanctity of a dead body*

Islam has categorically prohibited its followers from mutilating the corpses of their enemies, as was practised in Arabia before the advent of Islam. It is said in the *Hadith*: "The Prophet has prohibited us from mutilating the corpses of the enemies" (Bukhari, AbuDawood). The occasion on which this order was given is highly instructive. In the battle of Uhud the disbelievers mutilated the bodies of the Muslims who had fallen on the battlefield by cutting off their ears and noses and threading them together to put round their necks as trophies of war. The stomach of Hamza, the uncle of the Prophet, was ripped open by the Quraysh and his liver was taken out and chewed by Hinda, the wife of AbuSufyan, the leader of the Makkan army. The Muslims were naturally enraged by this horrible sight. But the Prophet asked his followers not to mete out similar treatment to the dead bodies of the enemies.

This great example of forbearance and restraint should be sufficient to convince any reasonable man that Islam really is the religion sent down by the Creator of the universe; if Islam allowed human emotions free rein, this horrible sight on the battlefield of Uhud would have provoked the Prophet to order his followers to mutilate the bodies of their enemy in the same manner.

#### 8. *Return of corpses of the enemy*

In the battle of Ahzab a renowned enemy warrior was killed and his body fell into the trench which the Muslims had dug for the defence of Madina. The unbelievers presented ten thousand Dinars to the Prophet and requested that the dead body of their fallen warrior be handed over to them. The Prophet replied: "I do not sell dead bodies. You can take away the corpse of your fallen comrade."

#### 9. *Prohibition of breach of treaties*

Islam has strictly prohibited treachery. One of the instructions that the Prophet used to give to Muslim warrior when sending them to the battlefield was: "Do not be guilty of breach of faith." This order has been repeated in the Holy Qur'an and the *Hadith* again and again. There is a famous incident in the peace treaty of Hdaybiya when, after the settlement of the terms of the treaty, AbuJandal, the son of the emissary of the unbelievers who had negotiated the treaty with the Muslims, came bound and blood-stained to the Muslim camp crying for help. The Prophet told him: "Since the terms of the treaty have been settled, we are not in a position to help you. You should go back with your father. God will provide you with some other opportunity to escape this persecution."

The entire Muslim army was deeply touched and grieved at the plight of AbuJandal and many of them were moved to tears. But when the Prophet declared "we cannot break the agreement," not a single person came forward to help the unfortunate prisoner; so the unbelievers forcibly dragged him back to Makkah. This is an unparalleled example of the observance of the terms of agreement by Muslims; Islamic

history can show many similar examples.

#### *10. Rules about declaration of war*

It has been laid down in the Holy Qur'an: "If you apprehend breach of treaty from a people, then openly throw the treaty at their faces" (8:58). In this verse, Muslims have been prohibited from opening hostilities against their enemies without properly declaring war against them, unless, of course, the adversary has already started the aggression. Present-day 'international law' has also laid down that hostilities should not be started without declaration of war, but since this is a man-made rule, it is often disregarded. Muslim laws, on the other hand, have been framed by Allah and may not be disregarded.