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The Rule of ‘Negating Aggression’ and its Link with Identifying the Right to Live in Peace in the Shiite Political Jurisprudence

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Abstract

One of the measures taken with the aim to realize international peace and security and to ease the individuals' access to a peaceful life is identifying the human right called 'right to peace' emphasized in international documents. However, the existence of some rules in Islam that denote the necessity of fighting and jihad with infidels and polytheists has caused an ambiguity: whether the necessity of jihad is in contrast with the non-Muslims' right to peaceful life or not. The question dealt with in this article is as follows: "Can we extract a general rule or principle from the Quran and the Infallibles' *sunnah* as well as the rational foundation to the effect that those who are not to fight Muslims – even if they are non-Muslims – have the right to live in peace?" To answer this question, it seems that we may adduce religious evidences to extract a general rule or principle entitled 'negation of aggression' (*nafy i'tidā*) based on

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which, fighting with those who are not to fight Muslims is aggression and transgressing divine limits, hence forbidden and illicit. Thus, non-Muslims have the right to live with Muslims in a peaceful atmosphere. To evaluate this hypothesis, the present article adduces genuine religious sources and infer from them in the form of one introduction and three chapters – in the process of analyzing the main concepts – the evidences for validity and authority of the rule of ‘negation of aggression’ and its exception in Imamiya jurisprudence.

Keywords

jurisprudence, jurisprudential rules, political jurisprudence, fighting, jihad, negation of aggression, peace, human rights, right to peace.

Introduction

Since armed fighting and hostility has occurred frequently among the nations throughout history and, unfortunately, it has been part of human life, many efforts have been made to predict rules and regulations about wars and the way they are launched. Accordingly, the Muslim jurists have also extracted many jurisprudential laws under the title of '*fiqh al-jihād*' (jurisprudence of jihad) from religious sources during centuries. Besides, they have extracted from some Quranic verses and traditions pertaining to war and jihad some jurisprudential rules and principles, and some other rules are also extractable, based on which we may infer the laws pertaining to some jurisprudential issues regarding ‘jihad’ and what is known, today, as ‘international laws of resorting to force’. Among them, we may refer to the ‘rule of negating aggression’.

This rule that has no background in the books of jurisprudential rules and is inferable from the verses of the Quran and some other evidences is investigated in this article using the common method in the jurisprudential rules. The importance of this rule is because – considering the identification of the principle of ‘no resort to force’ as an important rule in international law – discussing this rule can help us in explaining the related jurisprudential views.

Investigating the background of the discussion shows that numerous sources speak of the laws of war and humanitarian laws in Islam like the article entitled ‘*The Verse on Forbidding Aggression has Fundamental Humanitarian Rules*’ (Qorban-nia, 1394 SH, pp. 69-90). However, as the title and the content show, it has stated rules about the humanitarian law and its principles such as the principle of separation and distinction, proportion, the captive’s immunity from murder, and the like from the verse 190 of Sura *Baqara*. This is while none of these sources, as well as the books on jurisprudential rules,

has discussed a compiled jurisprudential rule under the title of ‘the rule of negating aggression’. Thus, unlike most sources mentioned about the humanitarian law (or *jus in bello*), the axis of the discussion in the present article is ‘the law of resorting to force’ (*jus ad bellum* of ‘right to war’). Besides, the aforementioned jurisprudential rule has been applied to the new human rights called ‘right to peace’.

Mentioning this point is necessary that this study is founded on assumptions the most important among which is that from the Islamic perspective, the principle in Muslim/non- Muslim relationship is peace, and war and jihad are permitted in special cases. Besides, by the ‘right to live in peace’, we do not mean having a friendly relationship with non-Muslims. Rather, we mean a natural peaceful coexistence.

First section: Analysis of conceptions

Some of the important terminologies discussed here such as jurisprudential rule, fighting and warfare, aggression and peace, require a conceptual analysis based on which we can prove the claims proposed in this article. Here, we deal with those conceptions.

A) Jurisprudential rule

In Arabic, the word *qā'iда* (literally ‘rule’) means the basis and root of something. Terminologically, it refers to something general that conforms to all its specific instances (Ma'louf, 1387 SH, p. 643). Regarding the jurisprudential rule, a variety of definitions have been proposed (see: al-Taskhiri, 1425 AH, vol. 1, pp. 7-8; Saheb Nesar, 1388 SH). Thus, there is no consensus in this regard, and each of these definitions refers to one of the aspects of distinction between the jurisprudential rule and other rules (see: Center of Islamic Studies and Researches, 1379 SH, pp. 10-13). However, altogether, we may say that the jurisprudential rule is a general legal rule by whose conformation to individual instances – such as

conforming the natural general to individuals – we get the specific legal decree (see: Abdollahi, 1388 SH, p. 18).

B) Fighting and warfare

Literally, *muqāṭala* means warfare (Ibn Manzour, 1414 AH, vol. 11, p. 549; Jowhari, vol. 5, p. 1798) and *qīṭāl* has been defined as fighting between two entities (Ibn Manzour, 1414 AH, vol. 11, p. 549). But *muqāṭila* refers to fighters, i.e. “those who start fighting” (Fayoumi, 1405 AH., vol. 2, p. 490; Ma'louf, 1387 SH p. 609) and “those who are qualified to fight” (Jowhari, 1410 AH, vol. 5, p. 1798). Accordingly, some of the Imamiyya commentators and jurists have stated, under the verse 190 of Sura *Baqara* (“Fight in the way of Allah those who fight you, but do not transgress. Indeed Allah does not like transgressors.”), that “*qīṭāl* and *muqāṭala* refer to the person’s intent for murdering someone who intends to murder him” (See: Tabarsi, 1372 SH, vol. 2, p. 509; Tabataba'i, 1390 AH, vol. 2, p. 61; Fazlullah, 1419 AH, A, vol. 4, p. 74; Tousi, 1409 AH, vol. 2, p. 143). Some other commentators have offered similar definitions and regarded *muqāṭala* as meaning fighting and warfare for killing someone else (Abul-Fotouh Razi, 1370 SH, vol. 3, p. 71).

From what we stated up to now, we may say that *muqāṭala* refers to a ‘mutual action’; that is, there need to be two parties in a *muqāṭala*. Thus, the important point is that when the enemy has no intention to fight Muslims, there will be no *muqāṭala* (see: Zoheyli, 1412 AH, p. 31).

C) *Iṭidā* (aggression)

Literally, *iṭidā* is derived from the root “*adw*” meaning aggression and transgression (Ragheb Isfahani, 1412 AH, p. 553; Farahidi, 1410 AH, vol. 2, p. 213; Fayoumi, 1405 AH., vol. 2, p. 397). The jurists and commentators have also defined *iṭidā* as meaning transgressing a right. Sheikh Tousi says, “*iṭidā* is transgressing a right and its principle is transgression” (Tousi, 1409 AH vol. 2, p. 143). In his book entitled *Jāmi‘ al- Bayān*, regarding the meaning of *muṭadīn* in the verse “Verily, God does not like the

mu'tadīn", Tabari also says, "those who transgress God's limits" (Tabari, 1412 AH, vol. 2, p. 111). In his *Tafsīr al-Mīzān*, Allamah Tabataba'i writes, under that verse, "*i'tidā* is exiting the limits; when one goes beyond the limits, they say, '*'adā* and *i'tadā*' (Tabataba'i, 1390 AH, vol. 2, p. 61). Considering what we said up to now, we may define *i'tidā* as transgressing the limits and the rights.

D) Peace

The Arabic term *sulh* means reconciliation, compromise, concordance and "peace" between two fighting parties and is opposite to "war", referring to an agreement and a pact thereby they resolve a struggle (Dehkhoda, 1373 SH, vol. 9, p. 13248; Mo'in, 1375 SH, vol. 2, p. 2160). In Arabic, this term has various meanings including friendship; reconciliation and agreement of the members in a group (Ibn Manzour, 1414 AH, vol. 2, p. 516); removal of hatred and hostility among people (Ragheb Isfahani, 1412 AH, p. 489); and creation of consent between two parties in a struggle (Toreyhi, 1416 AH, vol. 2, p. 387); concordance and compromise (Qorashi, 1381 SH, vol. 4, p. 141). But its most important meaning is 'anti-corruption' (Ibn Manzour, 1414 AH, vol. 2, p. 516; Toreyhi, 1416 AH, vol. 2, p. 387; Ragheb Isfahani, 1412 AH, p. 489; Mostafawi, 1368 SH, vol. 6, p. 265; Fayoumi, 1405 AH, vol. 2, p. 345); and it seems there are other meanings that return to this meaning.

'*Sulh*', from the perspective of Islamic jurisprudence and law, is discussed sometimes in the civil affairs, which means "a legal contract for agreement and reconciliation between two or more persons on something, including possession of some property or its benefit or transference of a right or its removal, or fulfilling of an owe, whether for free or in return for something" (Khou'i, 1413 AH, vol. 2, p. 192; see also: Khomeini, 1409 AH, vol. 1, p. 561). Sometimes, *sulh* is used in regard with 'jihad' and refers to a situation that is free from war and fighting and along with reconciliation and quietude. This meaning is often found in religious literature along with the term *silm* and variously meaning

peace, reconciliation and compromise (Jowhari, 1410 AH, vol. 5, p. 1951; Ibn Fares, 1404 AH, vol. 3, p. 91; Ragheb Isfahani, 1412 AH, p. 489; Ibn Manzour, 1414 AH, vol. 12, p. 292). Needless to say, by ‘peace’, we do not mean merely compromise, surrender, or submission (See: Mohaqeq Damad, 1393 SH, p. 63). Rather, we mean the existence of normal, natural and peaceful relations among nations without which there emerges a situation for resorting to force and armed conflict.

Considering what we said up to now, we may regard the right to peace as all individuals and nations’ right to live in a situation free from war, threat and violence (See: Firouzi, 1440 SH, p. 75). Thus, in the right to peace, in addition to lack of war and armed struggle or aggression, there must be no threat.

Section two: evidences for validity and authority of the rule

A) The Holy Quran

1. The verse 190 of Sura *Baqara*: in this verse, God says:

١. «وَقَاتُلُوا فِي سَبِيلِ اللَّهِ الَّذِينَ يَقْاتِلُونَكُمْ وَلَا تَعْتَدُوا إِنَّ اللَّهَ لَا يُحِبُّ الْمُعْتَدِلِينَ»

“Fight in the way of Allah those who fight you, but do not transgress. Indeed Allah does not like transgressors.”

From the two phrases “those who fight you” and “do not transgress”, we find out that fighting is permitted with those who are to fight Muslims. Thus, fighting those who are not to fight Muslims is among the instances of *i'tidā* and transgression. As some jurists say, one of the instances of aggression and going beyond the limits is starting the war before the enemy starts it (Montazeri, 1387 SH, p. 61). Thus, from this verse, while we understand the legislation and permission of warfare and fighting against those who are to fight the Muslims, we understand the forbiddance of aggression and transgression on those other than them. Accordingly, some others believe that the phrase “those who fight you” explicitly says that until the other party takes arms and starts the fight, Muslims must not launch an attack. Thus,

from the logical viewpoint, this glorious verse has a denoted ‘contraposition’. In other words, it means “do not fight those who do not fight you” (Mohaqqeq Damad, 1393 SH, p. 91), and this is a general rule noted by the Holy Quran.

As is used from the words of jurists and commentators, those who are not to fight are not considered fighters. Thus, fighting them is not considered logical at all (Fazlullah, 1419 AH, B, p. 264). This is because fighting refers to the person’s intent to murder the one who wants to murder him (See: Tabarsi, 1372 SH, vol. 2, p. 509; Tabataba’i, 1390 AH, vol. 2, p. 61; Fazlullah, 1419 AH, A, vol. 4, p. 74; Tousi, 1409 AH, vol. 2, p. 143).

Although in the interpretation of the first part of the verse, there are various views, including views on whether “those who fight you” is a condition for ‘fight’ or not, some maintain that there is no condition (Tabataba’i, 1390 AH, vol. 2, p. 60). On the contrary, however, some believe that ‘those who fight you’ denotes ‘conditionality’, especially considering the expansion of the term ‘*wa lā ta’adū*’ (‘and do not transgress’). Thus, the phrase ‘those who fight you’ is the condition for ‘fight’. That is, if they have come to fight you, fight them then (Qorashi, 1381 SH, vol. 5, p. 233). But in interpreting the second part of the verse – i.e. the phrase ‘and do not transgress; indeed Allah does not like transgressors’ – it has been noted that one of the important instances of *i’tidā* is that until the non-Muslims have not started fighting the Muslims, one must not start fighting them. Accordingly, the author of the exegesis *Majma’ al-Bayān* maintains, in interpreting this verse, that fighting those who do not launch an attack to Muslims is among the instances of *i’tidā* (Tabarsi, 1372 SH, vol. 2, p. 510). Some other commentators regard the forbiddance in this verse as an absolute forbiddance. Accordingly, they regard any action called transgression – such as fighting before inviting to the right path and initial fighting – as instances of *i’tidā* (Tabataba’i, 1390 AH, vol. 2, p. 61). Besides, not mentioning what the object of the verb *lā ta’adū* shows that any kind

of transgression, from a right or a decree, is forbidden – whether regarding the persons or the way enemies are to be killed, or the laws of the war (Jawadi Amoli, 1385 S, vol. 9, p. 577). Thus, from the jurisprudential view, the forbiddance mentioned in the verb *lā ta ՚idū* is a general and absolute forbiddance, and the verse forbids any kind of *i՚idā*; that is, anything that is an instance of *i՚idā* (Fazel Lankarani, 1392 SH, pp. 19, 32). This denotes the illicitness of fighting those who are not to fight Muslims (Moqaddas Ardabili, n.d., p. 307).

Similarly, other commentators – including both Imamiyya and Sunnites – have considered, in interpreting the phrase *lā ta ՚adī*, fighting those who do not start to fight with Muslims as an instance of *i՚idā* (See: Feyz Kashani, 1415 AH, vol. 1, p. 228; Mashhadi, 1368 SH, vol. 2, p. 263; Fazel Meqdad, 1373 SH, vol. 1, p. 344; Tabari, 1412 AH, vol. 2, p. 111; Rashid Reza, 1414 AH, vol. 2, p. 208; Alousi, 1415 AH, vol. 1, p. 470). And some other Sunnite commentators regard transgressing those who pose no danger or problem for the Islam and Muslims as an instance of *i՚idā* (Sayyid Qotb, 1425 AH, vol. 1, p. 188).

Accordingly, some believe that the phrase *lā ta ՚adū* as meaning “do not transgress”. This prohibiting order clearly suggests that legitimate war is realizable just when it is for repulsing aggression, not for aggression (Mohaqqeq Damad, 1393 SH, p. 91).

In effect, as the authorities maintain, fighting has a defensive nature in Islam. Islam wants to defend the legal rights of human beings by fighting. Defense is – in essence – restricted to the times when the Islamic domain is aggressed by infidels, unlike the war whose real meaning is aggression and going beyond the limits. Thus, the Holy Quran says, after the command of fighting, “and do not transgress; indeed, God does not like transgressors.” (Tabataba’i, 1390 SH, vol. 2, p. 61). From the above verse, a general rule and principle is inferred: “war and jihad is permitted when some individuals are to fight Muslims; otherwise, this will be an instance of forbidden *i՚idā*.” Accordingly, some of the commentators and jurists have asserted that oppressing an

infidel who is not to bother Muslims is illegitimate (Jawadi Amoli, 1388 SH, p. 168; see also: Moqaddas Ardabili, n.d., p. 307).

As for adducing to this verse for our claim, an objection is posed. Some adduce a tradition that says, ‘this is the first verse reveled on fighting; and when it was revealed, the Prophet was fighting some enemies and relinquished fighting those who did not fight him until the verse revealed as saying ‘kill the polytheists wherever you find them’,¹ and abrogated the aforementioned verse. It is said that the verse “and fight in God’s path those who fight you, and do not transgress. Indeed, God does not like the transgressors” has been abrogated with the revelation of verses such as the verse 5 of Sura *Towba* (Tabarsi, 1372 SH, vol. 2, pp. 509-510; Zamakhshari, 1407 AH, vol. 1, p. 235).

In answering this objection, we must say that suppose it is true. However, it does not mean that after the revelation of Sura *Towba*, the Prophet would initially fight the infidels who did not transgress Muslims just due to doctrinal issues, because this is opposite to the theme of many Quranic verses including Sura *Mumtaḥina*. In that Sura, benevolence and doing justice to the infidels who do not transgress Muslims, fight them or help expatriate them are permitted or even advisable (Montazeri, 1387 SH, p. 66). Besides, as some commentators maintain, numerous verse pertaining to fighting show special decrees in regard with special conditions, not abrogation or exception. The relationship of the verse of *qitāl* with the verse 5 of Sura *Towba* is the general-specific relationship. Besides, the content of the verse shows that these verses have been revealed together, and it is not right to consider an abrogation in that case (Jawadi Amoli, 1385 SH, vol. 9, p. 603; see also Tabataba'i, 1390 AH, vol. 2, p. 60; Makarem Shirazi et al., 1377 SH, vol. 2, p. 21; Tayyeb, vol. 2, p. 350).

Considering what was discussed up to now, we may say that from

1. The Quran, *Towba*: 5.

the phrases ‘those who fight you’ and ‘do not transgress’, we infer that this commands pertains to fighting those who take arms. Thus, until the enemy starts fighting and combating, one must not transgress them (Makarem Shirazi et al., 1377 SH, vol. 2, p. 19; see also: Sharif Lahiji, 1373 SH, vol. 1, p. 177). Some jurists have also confirmed this view (Halabi, 1403 AH, p. 256).

2. In the verse 8 of Sura *Mumtaḥina*, God says:

۲. «لَا يَنْهَاكُمُ اللَّهُ عَنِ الَّذِينَ لَمْ يَقْاتِلُوكُمْ فِي الدِّينِ وَلَمْ يُخْرِجُوكُمْ مِّن دِيَارِكُمْ أَن تَبْرُوْهُمْ وَتُقْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ»؟

“Allah does not forbid you from dealing with kindness and justice with those [polytheists] who did not make war against you on account of religion and did not expel you from your homes. Indeed Allah loves the just.”

According to this verse, totally denoting the rule of negating aggression, Muslims must not transgress those who are not to fight them or expatriate them; rather, they must treat such individuals with justice and benevolence. And clearly, acknowledging their right in enjoying a peaceful life is an instance of justice and benevolence. On the contrary, one of the instances of *i'tidā* mentioned in the previous verse is fighting those who treat Muslims peacefully. Accordingly, the author of *Tafsīr Tasnīm* adduces this verse to consider fighting the infidels who are not to fight and willing a peaceful coexistence with Muslims as an instance of *i'tidā* (Jawadi Amoli, 1385 SH, vol. 9, p. 577).

Besides, we infer from this verse that doing good and justice to infidels is not illicit and is legitimate; rather, it is favored by God and virtuous, and if they wish peace and tranquility, Muslims must accept (See: Jawadi Amoli, 1390 SH, vol. 20, p. 110).

The Constitutional Law of the Islamic Republic of Iran also states the contents of the rule of negating aggression in the article 14 as follows:

“In accordance with the sacred verse; (“God does not forbid you to deal kindly and justly with those who have not fought against you because of your religion and who have not expelled you from your

homes" [60:8]), the government of the Islamic Republic of Iran and all Muslims are duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their human rights. This principle applies to all who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran."

An important point that is worth mentioning here is that although this verse denotes establishing peace with non-Muslims, according to some commentators, such verses have been abrogated by other verses including verse 5 of Sura *Towba* ("and kill polytheists wherever you find them!") (Tabarsi, 1372 SH, vol. 9, p. 408). In that case, it loses the power of proving the aforementioned rule.

In answering this objection, it must be noted that this view is an extreme position in believing in 'abrogation' (*naskh*) (Zoheyli, 1412 AH, p. 130). Besides, it is not a right view, because as many commentators – including Allamah Tabataba'i – maintain, the aforementioned verse, while it is an absolute statement, does not include those infidels who do not enter a war with Muslims to be abrogated by verse 5 of Sura *Towba*. This is because the verse 5 of Sura *Towba* applies just to fighting infidels and polytheists who are renegades. Thus, there is no inconsistency between these two verses (Tabataba'i, 1390 AH, vol. 19, p. 234; Makarem Shirazi et al., 1377 SH, vol. 24, p. 32).

3. In the verse 90 of Sura *Nisā*, God says:

۳. «فَإِنْ أَعْتَرُلُوكُمْ فَلَمْ يُقَاتِلُوكُمْ وَالْقَوْمُ إِنِّي كُمُ السَّلَامُ فَمَا جَعَلَ اللَّهُ لَكُمْ عَلَيْهِمْ سَبِيلًا»;

"So if they keep out of your way and do not fight you, and offer you peace, then Allah does not allow you any course [of action] against them."

This verse clearly denotes the rule 'negating aggression'. Some of the jurists and commentators consider this verse as a warning to Muslims not to do transgression towards those who leave fighting Muslims and to let them go freely. Thus, when God shortens the

enemies’ hand, Muslims must not encroach. Therefore, when the infidels have a peaceful coexistence with Muslims, Muslims have no right to molest them. In other words, just as the infidels’ dominance over Muslims is not absolutely permitted,¹ and they cannot have administrative posts, Muslims also cannot – except in certain cases – dominate over infidels.² (Jawadi Amoli, 1390 SH, vol 20, p. 105; See also Tabari, 1412 AH, vol. 2, p. 111).

Considering the abovementioned points, the verse demands “no permission and no legitimacy of transgression and aggression” to those who – in addition to avoiding war and being impartial – are not to fight Muslims; rather, they demand peace and reconciliation with Muslims (See: Warā'i, 1390 SH, p. 89); and this is a basis for validity of negating aggression.

Besides, from this verse and other verses such as verse 61 of Sura *Anfāl* (“If they incline toward peace, then you [too] incline toward it, and put your trust in Allah.”), we infer that “the non-Muslim states, if they are in fight with Muslims and ask for peace, have the right to be accepted by the Islamic state providing that they are not cheating and deceiving” (Montazeri, 1385 SH, p. 117; see also: Jawadi Amoli, 1388 SH, pp. 134-135). Accordingly, the Prophet signed numerous peace contracts with various tribes and clans, mentioned by the researcher-jurist Ayatollah Ahmadi Miyanaji in his book entitled *Makātib al-Rasūl* (See: Ahmadi Miyanaji, 1419 AH, vol. 3, pp. 97-340). Thus, the rule negating aggression demands that if the enemy gives up fighting and offered peace, Muslims must accept their offer.

From the abovementioned points, we infer that Islam is the religion of peaceful global life, and with comprehensiveness, it has stated its

1. Allah will never provide the infidels any way [to prevail] over the believers. (the Quran, Nisā: 141).

2. Then Allah does not allow you any course [of action] against them. (the Quran, Nisā: 90).

domestic and foreign policies. Its original decree is peaceful coexistence with non-fighting infidels; and if Muslims want to have a peaceful life, they must observe the principles of life accepted by the Holy Quran and the men committed to international treaties (Jawadi Amoli, 1390 SH, vol. 20, p. 103).

Considering the aforementioned points, those verses wherein the subject of fighting or jihad with enemies are posed in an absolute and general form must be compared to those limited verses some of which were mentioned above (See: Montazeri, 1387 SH, p. 63).

B) The Infallibles' *sunnah* and way of life

There are occasions in the Infallibles' *sunnah* and way of life that can help us in proving the rule of negating aggression. Here, we refer to some of them:

1. The Prophet's method in proclaiming his mission and his invitation was – according to the Quran's text in the verse 125 of Sura *Naḥl* (“Invite to the way of your Lord with wisdom and good advice and dispute with them in a manner that is best.”) – was founded on wisdom, advice, and good dispute, and until the owners of power and influence have not started a fight, he did not launch an attack and refrained from war and struggle. He would refrain from fighting and struggling and would remind his followers and commanders of the importance and priority of guiding people over fighting and murdering them. If there were not for persecution on the part of heads of infidels and polytheists as well as their plots against the Prophet, and if the owners of power and wealth did not hinder the diffusion of Islam for preserving their illegitimate benefits and keeping people in ignorance, and if they let people free in choosing their belief, there would be no struggle between Muslims and non-Muslims at all (See: Wara'i, 1390 SH, pp. 102-103; see also: Zoheyli, 1412 AH, p. 134).

2. Some of the jurists maintain that in investigating wars, *ghazwas* an *sariyas*¹ of the Prophet, there can be found no occasion wherein the Prophet started fighting or ordered jihad without launching an attack on the part of infidels and polytheists, molest and persecution, or military and non-military plots against Muslims, and just for converting them to Islam. Rather, they would prosecute Muslims, would intrigue, would disrupt the security of routes, and would publicly attack non-Muslims allies of Muslims (Montazeri, 1387 SH, pp. 68-69). Accordingly, some researchers have investigated the Prophet’s wars one by one to conclude that they had a defensive aspect, and the infidels would start transgression and perfidy. As a result, it is difficult to find any instance of aggression on the Prophet’s *ghazwas* and *sariyas* (Qorashi, 1381 SH, vol. 5, pp. 236-241).

3. In the process of conquering Mecca, the Prophet ordered his commanders not to fight anyone except those who fight them (وَكَانَ عَهْدُ الْأَمْرَاءِ فِي فَتْحِ مَكَّةَ أَنْ لَا يَقْاتِلُوا إِلَّا مَنْ قَاتَلَهُمْ) (Ahmadi Miyanji, 1411 AH, p. 91). In this hadith, explicitly denoting the rule of negating aggression, in a general rule, the Prophet forbade fighting those who do not fight Muslims.

4. Imam Ali addressed Ma‘qal bin Qays, one of his commanders, when dispatched him with 3000 soldiers to Syria, and advised him, “Fear God whom you will inevitably meet and you will not find any end except Him, and do not fight save those who fight you” (Nahj al-Balagha, letter 12). In this letter, Imam Ali emphasizes a general rule using a literary sign of emphatic statement; i.e. *nūn thaqīla* (in *lā tuqātillanna*...).

5. Before confronting the enemies in the battle of Ḫiffīn, Imam Ali issued commands about the rules and regulations of war and jihad,

1. *Ghazwas* were those battles wherein the Prophet himself was the commander, and *sariyas* were those battles wherein the Prophet himself did not take part personally and would appoint a commander.

including that they must not start fighting, and until the enemy has not launched an attack, they must not take arms. In this regard, he says, “Do not fight them until they start fighting you; verily, thanks God, you have proof against them. And leaving them until they attack you is another proof for you against them” (*Nahj al-Balagha*, letter 14). Accordingly, some jurists have also said, “And do not start fighting the enemy until they are the ones who start fighting so that the proof is realized” (Halabi, 1403 AH, p. 256).

6. In the battle of Šiffīn, Imam Ali – for observing the rule of ‘not starting a war’ – kept the troops inactive for some days, and since the people of Syria did not start the battle, Imam would not order his troops to attack. Finally, the soldiers got bored and said he either fears death or is doubtful about the Syrians’ deviation. Accordingly, Imam delivered a sermon and said, ‘I neither fear death nor am I doubtful about fighting the Syrians; rather, I hope they come towards the true path. I like this more than killing them while they are perverted’ (*Nahj al-Balagha*, sermon 55). This shows the insistence of Imam on the general rule of ‘not fighting the enemy until they start the war’.

C) The Wise men’s way of life

Peace and tranquility is among the affairs that the man’s pure nature is always seeking. One of the man’s wishes is stable peace and reconciliation among the human beings. On the contrary, there is no doubt that war and bloodshed are inconsistent with the man’s nature and any man – considering his own pure nature – hates war. Along with this definite and undoubted principle, reason and religion regard defense and jihad as right and necessary in certain conditions (Fazel Lankarani, 1392 SH, p. 8). Accordingly, we may say that the way of life of the wise people in international relations and transactions is founded on peaceful coexistence and no transgression to others, unless a state is to fight them, plot against them, or seeks to dominate other.

Otherwise, they do not start any attack. Throughout the history, those who seek to dominate other lands and impose themselves by murdering, plundering and war were a minority; however, these aggressive actions are not supported by the wise men of the world. Today, people of the world denounce transgressors. The transgressors have to hide their aggressive policies under the guise of seeking peace, democracy, or saving people from oppressions of dictators (See: Warā'i, 1390 SH, p. 103).

Accordingly, today “no resort to force” in international relations is known as a fundamental principle in the UN charter and other important documents, and according to some legal experts (Cassese, 2005, p. 215), all countries of the world have acknowledged it as an infrangible principle.

Section three: exceptions to the rule

It is quite clear that if some individuals are to fight Muslims and molest or attack them, not only is having a friendly relationship with them forbidden, but also it is the duty of any Muslim to do his best in defending his life, property, land and religion. Accordingly, God says, “So should anyone aggress against you, assail him in the manner he assailed you!” (the Quran, Baqara: 194).

According to this verse and what we said on the rule of negating aggression, we may say that ‘aggression’ is despicable and forbidden when it is not in return for others’ aggression and, according to some commentators, when it is initial aggression. But if it is in return for others’ aggression and assault, it is not despicable any longer (Tabatabā'i, 1390 SH, p. 63). In other words, aggression to transgressors, in this verse and similar verses, is for stating an assumption, not a reality. Thus, they are not comparable. That is, aggression to transgressors is not like a despicable aggression (See: Jawadi Amoli, 1385 SH, vol. 9, p. 634). Therefore, some thinkers have stated that aggression takes place when

the aggressive warriors transgress those who are not to fight and request security and peace, and they pose no risk to Islam and Muslims (Sayyid Qotb, 1425 AH, vol. 1, p. 188). Accordingly, in the following cases, it is a duty for Muslims to take arms and start jihad and defense.

A) Breach of promise and start of a war

When a group breaches its promise, expels Muslims from their land, or starts the war, Muslims have the duty to take arms and go for jihad. The Holy Quran asserts this in Sura *Towba* as follows:

«وَإِن تَكُونوا أَئْمَانَهُم مَّن بَعْدَ عَهْدِهِمْ وَطَعْنُوا فِي دِينِكُمْ فَقَاتِلُوا إِيمَانَهُمْ لَا أَئْمَانَ لَهُمْ» (توبه: ١٢) «أَلَا تَفَاتُلُونَ قَوْمًا نَّكَوْنَا أَئْمَانَهُمْ وَهُمُّوا بِإِخْرَاجِ الرَّسُولِ وَهُمْ بِذَوْهُوكُمْ أَوَّلَ مَرَّةً» (توبه: ١٣)

“But if they break their pledges after their having made a treaty and revile your religion, then fight the leaders of unfaith—indeed, they have no [commitment to] pledges... Will you not make war on a people who broke their pledges and resolved to expel the Apostle, and opened [hostilities] against you initially?” (*Towba*: 12-13)

This is because they have been oppressed:

«أَدْنَى لِلَّذِينَ يُقَاتَلُونَ بِأَنَّهُمْ ظُلْمُوا» (حج: ٣٩).

“Those who are fought against are permitted [to fight] because they have been oppressed” (*Hajj*: 39).

Thus, in case the enemy breaches its pledge and imposes a war on Muslims, the Muslims are allowed to start jihad.

B) Rebellion

When the enemies start rebellion and insurgency, the duty of jihad is realized. The Holy Quran says:

«وَقَاتِلُوهُمْ حَتَّى لَا تَكُونَ فِتْنَةٌ وَيَكُونَ الدِّينُ لِلَّهِ فَإِنْ انْتَهُوا فَلَا عُذْوَانَ إِلَّا عَلَى الظَّالِمِينَ» (بقرة: ١٩٣).

“Fight them until rebellion/persecution is no more, and religion becomes [exclusively] for Allah. Then if they desist, there shall be no reprisal except against the wrongdoers.”

From the phrase “fa in-intahaw”, we understand that enemies have been busy insurgence against Islam before fighting the Muslims. Also, we understand that the mere infidelity is no reason for obligation of jihad, because they remained infidels even after they stopped rebellion and insurgence (Montazeri, 1387 SH, p. 63).

In this regard, Imam Khomeini says, “we follow Islam in opposing war all the time, and we wish to have peace and reconciliation among all nations. However, if they impose war on us, we are all warriors and will confront them with all our force” (Khomeini, 1389 SH, vol. 13, p. 261). Elsewhere, he says, “we want the world to be in peace. We want all people, all Muslims and non-Muslims, to live in peace and tranquility. However, this does not mean that if someone wants to go inside someone’s house and transgress, we are to be at peace with him and yield to his oppression; of course, not! Just as oppression is illicit, accepting oppression and yielding to it are also illicit.” (Khomeini, 1389 SH, vol. 15, p. 117).

Thus, as some authorities have stated (Makarem Shirazi et al., 1377 SH, vol. 24, pp. 31-33), according to this verse, non-Muslims are divided into two groups: a group is hostile and wants to fight Muslims. It is the Muslims’ duty to combat this group and avoid any friendly relation with it. Another group, while it consists of infidels and polytheists, has nothing to do with Muslims and have no hostile treatment with them. It is incumbent upon Muslims to treat them with justice.

C) Supporting the oppressed

Jihad aiming at supporting the oppressed people who are entangled in a stifling milieu and are harassed by the oppressor’s injustice, being completely disappointed and beseeching God to save them is among the exceptions of permission for fighting and even encouraging people to enter it (See: Makarem Shirazi et al., 1377 SH, vol. 4, pp. 9-10). In this regard, the

Holy Quran asserts in the verse 75 of Sura *Nisā*:

«وَمَا لَكُمْ لَا تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ وَالْمُسْتَضْعَفِينَ مِنَ الرِّجَالِ وَالنِّسَاءِ وَالْأُولَادِ إِنَّ الَّذِينَ يَعْوَلُونَ رَبَّنَا أَخْرَجُنَا مِنْ هَذِهِ الْفَرْيَةِ الظَّالِمِ أَهْلُهَا وَاجْعَلْ لَنَا مِنْ لَدُنْكَ وَلِيًّا وَاجْعَلْ لَنَا مِنْ لَدُنْكَ نَصِيرًا».

“Why should you not fight in the way of Allah and the oppressed men, women, and children, who say, ‘Our Lord, bring us out of this town whose people are oppressors, and appoint for us a guardian from Yourself, and appoint for us a helper from Yourself?’”

Although this verse may conform to the early Muslims, it suggests a general decree not restricted to any certain time and place (See: Jawadi Amoli, 1385 SH, vol. 19, p. 518); and the Holy Quran invites Muslims to take part in jihad for defending all oppressed people in an absolute statement. This is a basic principle in Islam to be observed by Muslims, even if it leads to jihad. This is one of the most valuable Islamic orders that informs us of the truth of this religion (Makarem Shirazi et al., 1377 SH, vol. 2, p. 28).

Besides, we infer from this verse that assisting the oppressed people of the world is not restricted to Muslim people; rather, it includes non-Muslims as well. This shows an important point regarding the goal of jihad in Islam.

Accordingly, some jurists believe that there is no initial jihad, in Islam, meaning a military campaign in order to suppress deviated beliefs and forcing infidels to convert to monotheism or to expand the territory of the Islamic state and conquest. And basically, in the Quran, there is no initial jihad as such. Rather, the command to start jihad and fighting was issued after the enemies started the war or breached their pledge and after they decided to expel the Prophet from Mecca or created military and non-military riots. Thus, that command was for repulsing the oppressions from the oppressed people and those who requested help (Montazeri, 1387 SH, p. 63).

In the international law, although the principle of “no resort to force” is accepted as an important rule, the exception of “humanitarian intervention” and “responsibility of protect” are identified as supports for oppressed people. Besides, the Constitutional Law of the IRI has followed the Imamiyya jurisprudence and supported, in the article 54, the truth-seeking struggles of the oppressed people against arrogant powers in any areas of the world.

Conclusion

Islam puts great emphasis on the security, welfare, tranquility and peaceful life for all human beings. Thus, while it stresses on peaceful coexistence of all human beings as a principle, it invites all people to live a peaceful life and observe the related rules and regulations.

Numerous verses of the Holy Quran, the Infallibles’ way of life, and intellectual reasons denote this, in a way that from these evidences, we infer a jurisprudential rule called ‘the rule of negating aggression’. According to this rule, fighting with those who are not to fight Muslims is *i'tidā* (meaning ‘aggression’), transgressing the divine limits and – hence – forbidden and illicit. Thus, non-Muslims have the right to peaceful coexistence with Muslims. According to this rule, the Islamic state is allowed to establish good relations with those states that are not to fight Muslims, do not persecute them, do not plot against them, and wish to have good ties with them. Thus, accepting the rule of negating aggression creates the right for individuals and nations to live in peace and tranquility.

Thus, the rule of negating aggression determines a general principle in Muslims’ relations with non-Muslims, fixed for Muslims in early days of Islam as well as today’s Muslims. According to that principle, it is a duty for Muslims to establish a peaceful relation with non-Muslims, even infidels, if they are not to fight them or are willing to have a peaceful coexistence with them. Of course, this is not a relation

that they have with their Muslims brethren and not a relation that leads to the infidels' infiltration among Muslims. Thus, peace and peaceful relation with non-Muslims does not mean reconciliation, surrender, or a friendly relation. Rather, it means a normal peaceful relation among the nations without preparing a ground for threat or resort to force and armed struggle. This will be – according to the verses of the Quran – admired and approved by God.

Of course, it is quite clear that if there are some individuals and groups who are to fight Muslims and molest them, it is forbidden to establish a normal and peaceful relation with them. Besides, any Muslim has the duty to do his best in defending Muslims' lives, properties, land and religion, and to take a hostile position against any group or any country with hostile position, rising up against Islam and Muslims, or assisting the enemies of Islam.

References

- * The Holy Quran
- * Nahj al-Balaghah
- 1. Abdollahi, A. K. (1388 SH). *Qawā'id az Fiqh* (1st ed.). Qom: Bustan Ketab Institute.
- 2. Abul-Fotouh al-Razi, H. A. Kh. (1370 SH). *Rowd al-Jinān wa Rouh al-Jinān fī Tafsīr al-Qurān* (vol. 3, 1st ed.). Mashhad: Astan Qods Foundation of Islamic Researches.
- 3. Ahmad Mianaji, A. (1411 AH). *Al-Asīr fil-Islām* (1st ed.). Qom: al-Nashr al-Islami Institute.
- 4. Ahmad Mianaji, A. (1419 AH). *Makatib al-Rasūl* (vol. 3). Tehran: Dar al-Hadith Institute.
- 5. Alousi, M. (1415 AH). *Rouh al-Ma'ānī fī Tafsīr al-Qurān al-'Azīm wal-Sab 'al-Mathānī* (vol. 1, 1st ed.). Beirut: Dar al-Kotob al-'Ilmiyya.
- 6. Cassese, A. (2005). *International Law* (3rd ed.). (Trans. Sharifi, H.). Tehran: Mizan.
- 7. Center of Islamic Studies and Researches (1379 SH). *Ma'khal-Shināsī Qawā'id Fiqhī*. Qom: Publishing Center of Office of Islamic Propagations, Qom Seminary.
- 8. Dehkhoda, A. A. (1373 SH). *Lughatnāma Dihkhudā* (vol. 9, 1st ed.). Tehran: Publishing Institute of Tehran University.
- 9. Farahidi, Kh. A. (1410 AH), *Kitāb al-'Ayn* (vol. 2, 2nd ed.). Qom: Hejrat.
- 10. Fayoumi, A. M. (1405 AH). *Al-Miṣbāḥ al-Munīr fī Gharīb al-Sharīḥ al-Kabīr lil-Rāfi'i* (vol. 2, 1st ed.). Qom: Dar al-Hejra.
- 11. Fazel Lankarani, M. J. (1392 SH). “Towlīd wa Istifāda az Silāh-hāyi Kushtār Jamī az Dīdgāh Fiqh Islāmī” in *Huqūq Islāmī Periodical*, 10(39), pp. 7-34.
- 12. Fazel Meqdad, M. A. (1373 SH). *Kanz al-Irfān fī Fiqh al-Qurān* (vol. 1, 1st ed.). Tehran: Mortazawi Publications.

- 13.Fazlullah, S. M. H. (1419 AH). A. *Tafsīr min Waḥy al-Qurān* (vol. 4, 1st ed.). Beirut: Dar al-Molk.
- 14.Fazlullah, S. M. H. (1419 AH). B. *Kitāb al-Jihād*. Beirut: Dar al-Molk.
- 15.Feyz Kashani, M. M. (1415 AH). *Tafsīr al-Ṣāfi* (vol. 1, 2nd ed.). Tehran: al-Sadr Publications.
- 16.Firouzi, M. (1400 SH). “Barrasī Fiqhī Ḥaqqa bar Ṣulḥ bā Ta’kīd bar Āyāt Qurān Karīm” in *Ilmī Pazhūhishī Fiqh Periodical*, 28(108), pp. 68-97.
- 17.Halabi, A. (1403 AH). *Al-Kāfi fil-Fiqh* (1st ed.). Isfahan: Maktaba al-Imam Amir al-Mo’menin.
- 18.Ibn Fares, A. (1404 AH). *Muṣṭam Maqā’is al-Lughā* (vol. 3, 1st ed.). Qom: Office of Islamic Propagation.
- 19.Ibn Manzour, M. M. (1414 AH). *Lisān al-‘Arab* (vols. 2, 11, 12, 3rd ed.). Beirut: Dar al-Fekr.
- 20.Jawadi Amoli, A. (1385 SH). *Tasnīm* (vol. 9, 1st ed.). Qom: Center of Asra Publications.
- 21.Jawadi Amoli, A. (1388 SH). *Rawābiṭ bayn al-Milal dar Islām*. Qom: Center of Asra Publications.
- 22.Jawadi Amoli, A. (1389 SH). *Tasnīm* (vol. 19, 2nd ed.). Qom: Center of Asra Publications.
- 23.Jawadi Amoli, A. (1390 SH). *Tasnīm* (vol. 20, 1st ed.). Qom: Center of Asra Publications.
- 24.Jowhari, I. H. (1410 AH). *Al-Ṣīḥāḥ: Tāj al-Lughā wa Ṣīḥāḥ al-‘Arabiyya* (vol. 5, 1st ed.). Beirut: Dar al-‘Ilm lil-Malā’īn.
- 25.Khomeini, S. R. (1389 SH). *Saḥīfa Imām* (vol. 13, 15). Tehran: Imam Khomeini Educational and Research Institute.
- 26.Khomeini, S. R. (1409 AH). *Taḥrīr al-Wasīla* (vol. 1, 1st ed.). Qom: Dar al-‘Ilm Institute.
- 27.Khou’i, S. A. (1413 AH). *Minhāj al-Ṣāliḥīn* (vol. 2). Qom: Madinat al-‘Ilm Publications.
- 28.Makarem Shirazi, N. et al. (1377 SH). *Tafsīr Nimūna* (vols. 2, 4, 24). Tehran: Dar al-Kotob al-Islamiyya.

29. Ma'louf, L. (1387 SH). *Al-Munjid fil-Lugha* (4th ed.). Qom: Dar al-'Ilm Publishing Institute.
30. Mashhadi, M. M. R. (1368 SH). *Tafsīr Kanz al-Daqā'iq wa Baḥr al-Gharāib* (vol. 2, 1st ed.). Tehran: Ministry of Islamic Culture and Guidance.
31. Mohaqeq Damad, S. M. (1393 SH). *Huqūq Bayn al-Milal; Rahyāftī Islāmī* (1st ed.). Tehran: Center of Publishing Islamic Sciences.
32. Mo'īn, M. (1375 SH). *Farhang Fārsī* (vol. 2). Tehran: Amir Kabir Publications.
33. Montazeri, H. (1385 SH). *Risālayi Huqūq* (4th ed.). Tehran: Sarā'i Publications.
34. Montazeri, H. (1387 SH). *Hukūmat Dīnī wa Huqūq Insān* (2nd ed.). Qom: Arghawan Danesh.
35. Moqaddas Ardabili, A. (n.d.). *Zubdat al-Bayān fī Aḥkām al-Qurān* (1st ed.). Tehran: Maktaba al-Murtazawiyya.
36. Morteza Ameli, S. J. (1428 AH). *Al-Šāhīl min Sīra al-Nabī al-Aṣam*. Beirut: al-Markaz al-Islami li-Derasat.
37. Mustafawi, H. (1368 SH). *Al-Taḥqīq fī Kalimāt al-Qurān al-Karīm* (vol. 6). Tehran: Ministry of Islamic Culture and Guidance Publications.
38. Qorbannia, N. (1394 SH). “Āya Nahy az I'tidā: Dārā'yī Qawā'id Bunyādīn Bashār-dūstānā” in *Qurān, Fiqh wa Huqūq Islāmī Periodical*, 1(2), pp. 69-90.
39. Qurashi, S. A. A. (1381 SH). *Qamūs Qurān* (vol. 4, 13th ed.). Tehran: Dar al-Kotob al-Islamiyya.
40. Ragheb Isfahani, H. M. (1412 AH). *Mufradāt Alfāz Qurān* (1st ed.). Beirut- Damascus: Dar al-Qalam-al-Dar al-Shamiyy.
41. Rashid Reza, M. (1414 AH). *Tafsīr al-Manār* (vol. 2, 1st ed.). Beirut: Dar al-Ma'rifa.
42. Saheb Nesar, M. H. (1388 SH). “Shahid Awwal, Pāyeguzār Qawā'id Fiqhī” (Trans. Amini-pour, A.) in *Kawushī Now dar Fiqh Periodical* 16(61), pp. 20-53.

-
- 43.Sayyid Qotb (1425 AH). *Fī Zilāl al-Qurān* (vol. 1, 35th ed.). Beirut: Dar al-Shorouq.
- 44.Sharif Lahiji, M. A. (1373 SH). *Tafsīr Sharīf Lāhījī* (vol. 1, 1st ed.). Tehran: Dad Publishing Office.
- 45.Tabari, M. J. (1412 AH). *Jāmi‘ al-Bayān fī Tafsīr al-Qurān* (vol. 20, 1st ed.). Beirut: Dar al-Ma‘refa.
- 46.Tabarsi, F. H. (1372 SH). *Majma‘ al-Bayān fī Tafsīr al-Qurān* (vols. 2, 9, 1st ed.). Tehran: Naser Khosrow.
- 47.Tabataba’i, M. H. (1390 AH). *Al-Mīzān fī Tafsīr al-Qurān* (vols. 2, 19; 1st ed.). Beirut: al-A‘lamī lil-Matbū‘at Institute.
- 48.Taskhiri, M. A. (1425 AH). *Al-Qawā‘id al-Uṣūliyya wal-Fiqhiyya ‘Alā Madhhab al-Imāmiyya* (vol. 1). Tehran: Majma‘ al-‘Alami li-Taqrīb al-Madhab al-Islamiyya.
- 49.Tayyeb, A. H. (1369 SH). *Atyab al-Bayān fī Tafsīr al-Qurān* (vol. 2, 2nd ed.). Tehran: Islam Publications.
- 50.Toreyhi, F. (1416 AH). *Majma‘ al-Bahrāyn* (vol. 2). Tehran: Mortazawi Bookshop.
- 51.Tousi, M. H. (1409 AH). *Al-Tibyān fī Tafsīr al-Qurān* (vol. 2). Qom: Maktab al-A‘lam al-Islami.
- 52.Wara’i, S. J. (1390 SH). *Barrasī Fiqhī Aṣl dar Rawābiṭ Khārijī Dowlat Islāmī* (1st ed.). Qom: Research Center of Seminary and University.
- 53.Zamakhshari, M. O. (1407 AH). *Al-Kashshaf ‘An Ḥaqā‘iq Ghawāmid al-Tanzīl wa ‘Uyūn al-Aqāwīl fī Wujūh al-Ta‘wīl* (vol. 1, 3rd ed.). Beirut: Dar al-Kotob al-‘Arabi.
- 54.Zoheyli, W. (1412 AH). *Āthār al-Harb fil-Fiqh al-Islāmī* (4th ed.). Beirut: Dar al-Fekr.