



Refuting Extremist Ideology

Series (2)

The World Organization for al-Azhar Graduates

Islam Stance's

on the Use of Human Shields

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Foreword

Islam calls for the preservation of human life and prohibits any form of aggression against it. Accordingly, the Messenger of Allah (PBUH) stated that the son of Adam who killed his brother carries the burden of guilt for every murder committed thereafter. The Messenger of Allah (PBUH) said: “No life is taken unjustly without a portion of its blood being laid at the door of Adam’s first son because he was the first to introduce murder.”⁽¹⁾

In another Hadith: 'Indeed, this human being is Allah’s creation; cursed is the one who destroys His creation ⁽²⁾.' In another hadith: “Shedding of blood will be the first matter about which judgment will be given on the day of resurrection ⁽³⁾.” In another hadith, It was narrated that Abdullah Ibn Omar said: “I saw the Messenger of Allah (PBUH) circumambulating the Kaabah and saying: 'How good you are and how good your fragrance; how great you are and how great your sanctity. By the One in Whose Hand is the soul of Mohammad, the sanctity of the believer is greater before Allah than your sanctity, his blood, and wealth.'” ⁽⁴⁾.

All of this and more reveal the value of human life in Islam. As a result, Islam has established rules to protect civilians during wars. Scholars have extensively discussed these principles in the sections on jihad and the consequences of war in jurisprudence texts. In this context, we will summarize Islam's stance on the use of human shields.

¹) Narrated by Al-Bukhari 3335, Muslim 1677 and Ahmed 3630.

²) Narrated by Al-Tirmidhi in his Hadith No. 1935.

³) Narrated by Al-Bukhari 6864, Muslim 1678 and Ahmad 388.

⁴) Narrated by Ibn Maja 3932.

Term

Jurists use the term “tatarrus”, which corresponds to the modern term “human shields.” It refers to the act of enemies using Muslims as a means of fortification or protection.

Jurists have differed on the permissibility of attacking enemies in such cases. However, they agree that it is permissible when necessary, such as when refraining from action would lead to greater harm. In such situations, it is allowed based on the principle of choosing the lesser of two evils.

And they inferred this from the Holy Quran, “They are the ones who disbelieved and barred you from the Holy Mosque and the offering, detained so as not to reach its place of sacrifice. If it had not been for certain men believers and certain women believers whom you knew not, lest you should trample them, and there befall you guilt unwittingly on their account (that God may admit into His mercy whom He will), had they been separated clearly, then We would have chastised the unbelievers among them with a painful chastisement.” [Q. 48: 25] The noble verse was revealed regarding Muslims who were held captive in Mecca after the Treaty of Hudaibiyyah. The permissibility is contingent upon necessity; however, if the enemies can be dealt with by other means, it is not permissible, to preserve the lives of the Muslims.

The Fatwa of the Tatarrus

Origin and Circumstances

The concept of tatarrus emerged during the Tatar invasion of Muslim lands. The Tatars had a practice of capturing Muslims, chaining them, and using them as human shields at the forefront of their forces during battles against the Muslims. This tactic caused hesitation among many Muslims, who refrained from attacking the Tatar forces or firing arrows out of fear of harming their fellow Muslims. These captives were referred to as “cogs,” and the entire situation came to be known as tatarrus.

Thus, Ibn Taymiyyah issued a fatwa at the time, obligating Muslims to fight the Tatars and permitting the killing of Muslim cogs (shields) under specific conditions. Other scholars, such as al-Qurtubi and Ibn Qudamah preceded him. He stated: “If they use a Muslim as a shield and there is no pressing need to attack them—such as when the battle is not actively ongoing, or when they can be subdued without harming the shield, or when their harm can be otherwise averted—then it

is not permissible to attack them. If someone does attack and harm a Muslim, they are liable for compensation. However, suppose there is a pressing need to attack due to fear for the safety of Muslims. In that case, it is permissible to attack, as it becomes a case of necessity..." Al-Layth ibn Saad said: "Abandoning the conquest of a fortress that can be overtaken is better than killing a Muslim without just cause." Notably, al-Awza'i said: "How can they dart what they cannot see? They are only darting the children of Muslims."⁵)

Other jurists have also spoken on the matter and set strict conditions, so the fatwa became more closely associated with Ibn Taymiyyah, especially since the events were significant during his time.

Some Islamic movements adopted this fatwa despite the error in analogy, failing to consider the principle that a fatwa may change with changing circumstances. This ruling and its conditions are tied to specific factors, including the requirement that two warring armies meet. So, where are the two warring armies in the present context? And are the Muslims being killed as captives of non-Muslims? Moreover, these foreigners are under a covenant of protection, and their blood is inviolable.

The New term:

"Shields" is the plural form of "shield" and, linguistically, a shield is a weapon by which a fighter defends himself against an enemy. In such context, a shield is a piece of metal grabbed from its middle parts with one hand to fend off the swords.

In the same vein, civilians used in wars and armed conflicts are referred to as "Human Shields", since civilians, unwillingly, play the same role as the traditional shields aforementioned in protecting parties to the conflict.

Idiomatically, "Human Shields" means: using civilians, protected by human international codes, as prisoners of war to deter assaults against fighters or military sites.

Similarly, "Human Shields" means using an array of civilians or military to protect sensitive buildings during war time, such as military outposts, strategic facilities, dams, or bridges. This process occurs by spreading those "Human Shields" around such establishments to, ethically, embarrass the enemy, forcing it to halt its attack.

⁵) Al-Mughni by Ibn Qudamah 12/675.

Further, civilians are deemed “Human Shields” if one of the parties to the conflict waged military operations from civilian locations, especially schools, hospitals, places of worship, and residential areas, since the civilians’ inevitable fate is to be “Human Shields”.

Illustrations of Utilizing “Human Shields” During Wars

WWI:

In the year 1914, during World War I, the German army used the Belgian civilians as human shields in its ground battles against the Allies.

WWII:

Gottlob Berger, a German Lieutenant General, admitted the existence of a plan authorized by Hitler to build concentration camps for British and American war prisoners in the major German cities. These camps were to protect the cities from the allies’ air strikes; however, such a plan was not implemented, since Berger realized that it would violate the 1929 Geneva Convention. He argued that there was not enough barbed wire for these camps.

Iraq Invasion of Kuwait 1990:

After the invasion, the Iraqi President, Saddam Hussein, used the Western subjects as human shields to halt their countries from forming an international alliance to strike Iraq. According to Western media, some of these subjects appeared with Saddam Hussein in his palace as a sign of supporting him; yet, it was reported that such meetings took place against their will, whereas others were held in military and industrial facilities.

War in Afghanistan:

Taliban, the controlling group of Afghanistan, used women and children as shields against the attacks of the coalition forces in different incidents, in 2006, 2007, and 2008, according to “The Times”, “Telegraph” and “ABC” Channel.

The American Invasion of Iraq:

Scott Ewing, an American Officer, reported that during his service in Iraq between 2005 and 2006, the US forces used to distribute sweets among Iraqi children to remain around their tanks as a kind of protection against resistance attacks.

The Second Palestinian Uprising “Intifada” (2000-2005):

According to Israeli officials, Amnesty International, and Human Rights Watch, the Israeli forces used Palestinian civilians as human shields in circa 1200 incidents.

Gaza War (2008-2009):

During this war, which Israel code-named “Cast Lead Operation”, Amnesty International and Breaking the Silence accused Israel of using civilians, including children, as human shields to protect their security concentrations during incursions in the Gaza Strip. Further, those civilians were forced to walk in front of the military vehicles while storming booby-trapped houses.

Gaza War 2014:

The UN Human Rights Council accused Israel of continuing to use Palestinian children as human shields and forcing them to act as guides.

Lebanon War 2006:

Israel accused Hezbollah of using civilians to protect missile launch sites; however, a separate report by Human Rights Watch concluded that Hezbollah did not force anyone to exist in these sites.

Libyan Civil War 2011:

Some supporters of Muammar al-Gaddafi, the Libyan President, acted as human shields in some areas to ban flights to protect Gaddafi’s residence and the Libyan airports.

The Syrian Civil War (2011-present):

Human Rights Watch accused the Syrian army and its affiliated militants of using civilians in cities as human shields when advancing into areas controlled by armed opposition.

In late October 2015, news reports indicated that an opposition faction called the Army of Islam used what they described as captured Iranian officers and their wives as human shields on top of houses in the city of Douma, following a series of airstrikes targeting residential homes that killed hundreds. Sources said these detainees were Assad loyalists from Syria, not Iranians.

ISIL consistently used women and children as human shields to avoid international coalition airstrikes.

Voluntary Human Chains and Islam's Position

A group of 200-500 activists volunteered to travel to Iraq before the 2003 American invasion, forming human chains around important civilian facilities. After the war began, none of these facilities were targeted.

Rabbis for Human Rights agreed to form a human chain in 2003 to protect Palestinian farmers during the olive harvest from settler attacks.

International Solidarity Movement activists Rachel Corrie and Tom Hurndall sacrificed their lives in 2003 and 2004 respectively when they volunteered to protect Palestinian homes that the Israeli army was demolishing and seizing land for settlers.

The International Solidarity Movement rejected the term “human shields” to describe what the volunteers did and Amnesty International supported this position, referring to voluntary human chains as a form of peaceful protest.

Islam's Position on Voluntary Chains

They are permissible, based on the principle that “actions are judged by their intentions,” but only if one's safety is assured. If safety is not certain, it is not permitted, according to the Quranic verse “and cast not your own hands into destruction” [Q. 2: 195]

Basic Islamic Rules for Protecting Civilians

Islam guarantees the protection of non-fighters, which we present briefly:

First: Protection of Civilians and Non-fighters:

Islamic jurisprudence emphasizes the prohibition of intentionally targeting non-combatant civilians during military operations. Allah says “And fight in the way of Allah with those who fight against you, but aggress not; Allah loves not the aggressors.” [Q. 2: 190]

The Sunnah specified those who must be protected during fights unless they participate in battles: women, children, the elderly, monks, and workers, who are hired to perform specific services and tasks for the enemy on the battlefield but do not participate in actual combat operations.

Among the various tasks assigned to these workers on the battlefield at that time was caring for animals and the personal property of fighters.

In modern warfare, this category might be comparable to medical staff - both military and civilian - military correspondents, and all other categories of individuals within the enemy army who do not participate in actual combat operations.

This also includes the sick, blind, disabled, mentally ill, farmers, merchants, and craftsmen unless they participate in fighting.

Second: Prohibition of Indiscriminate Weapons:

Although weapons used by Muslims in early Islamic history were primitive with limited destructive capability, Muslim scholars were keen on establishing rules regarding the use of indiscriminate weapons, such as the mangonel (a device for throwing large stones), poisoned arrows, and fire arrows.

This is based on the Holy verse “Because of that, We decreed for the Children of Israel that whoever slays a soul for other than a soul, or for corruption in the land, it shall be as if he had slain mankind altogether; and whoever saves the life of one, it shall be as if he had saved the life of all mankind. Our messengers have already come to them with clear proofs, but after that many of them still commit excesses in the land.” [Q. 5: 32]

Third: Prohibition of Random Attacks:

Based on the principle of distinguishing between fighters and non-fighters, Muslim scholars detailed two methods: night raids and the use of human shields, all for preserving non-fighters' lives.

Based on these established rules in Islam, the use of human shields in wars is not permissible for any of the warring parties.

May Allah's peace and blessings be upon our Prophet Muhammad, his Family, and all his
Companions.