

In the Name of God, the Most Merciful, the Most Kind



July 31, 2017

IHL Violation – A Matter of Great Con-

The International Humanitarian Law (IHL) which supports the rights of non-combatants and the injured during armed conflicts is a controversial issue and hardly observed by warring sides, mainly terrorist networks. Warring factions are supposed to distinguish between civilians and soldiers and target only the combatants and military places. Inflicting unnecessary sufferings upon civilians, persecuting or killing prisoners of war and locals or humiliating them are not allowed on the basis of rule of war.

The IHL will be applied during both the International Armed Conflict (IAC) – when two or more countries or a country and an international organization are engaged in conflict – and non-International Armed Conflict (NIAC) when a country and a non-state group or two or more non-state groups are fighting against each other in a single territory. However, a war waged against a despotic, racist or colonial regime by a nation will be included in NIAC on a certain condition. The Geneva Conventions which comprise four treaties, and three additional protocols, that establish the standards of international law for humanitarian treatment in war was approved to reduce unnecessary sufferings of non-combatants and support human rights and dignity during wartime.

The First Geneva Convention "for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field" first adopted in 1864, revised in 1906, and finally 1949. The Geneva Conventions are rules that apply only in times of armed conflict and seek to protect people who are not or are no longer taking part in hostilities; these include the sick and wounded of armed forces on the field, wounded, sick, and shipwrecked members of armed forces at sea, prisoners of war, and civilians.

It is worth saying that the prisoners of war should be treated with respect and dignity. Torturing, mutilating, humiliating or killing them is considered against the IHL. After all, they are not supposed to stand trial unless they are involved in war crime. In other words, this is the soldiers' rights to participate in conflicts which is not a crime to be judged upon. Imprisoning them is aimed to prevent them from war. When the conflict comes to an end, they should be released.

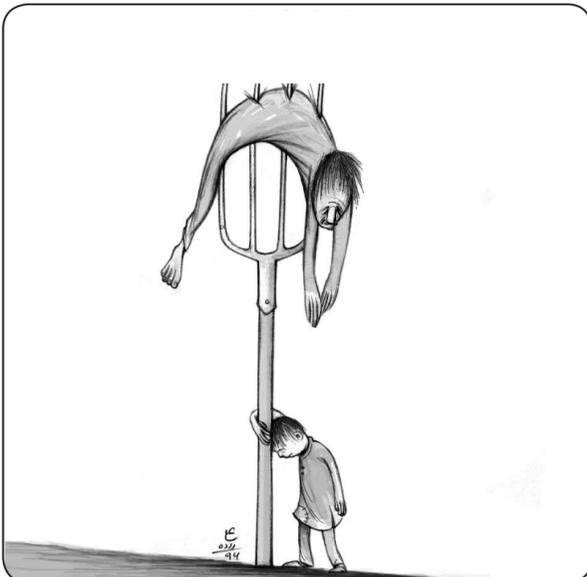
In brief, these acts will remain prohibited at any time and in any place: violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon dignity, in particular humiliating and degrading treatment; and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

All warring factions, countries and the international community will have to observe the IHL. Hence, targeting civilians, including women and children, and civil infrastructures are considered war crime.

Ill-fatedly, humanitarian law is violated flagrantly by warring parties, mainly by terrorist fighters. For example, the Taliban target civilians, teachers, lecturers, doctors, hospitals, schools, universities, etc. without a tinge of guilt. They neither recognize nor respect the international instruments. Militant fighters are widely involved in war crime in the region. The IS group tramples upon the rights and dignity of civilians in the worst possible way. They kill people indiscriminately and violate their human rights and dignity. The IS fighters raped women, sliced the throat of children and spilled the blood of men in Iraq and Syria. They did not only destroy residential estates but also historical monuments the same as the Taliban did in Afghanistan.

Reports regarding the Taliban's cruel practices make repeated headlines in national and international newspapers. In the country's ongoing conflict, the Taliban guerilla fighters are carrying out attacks disproportionately in crowded areas which will cause great sufferings for non-combatants. The graph of civilian casualties is mounting with each passing day in Afghanistan caused by all parties involved in the war. Thus, violation of IHL is a matter of serious concern in the country and besides the struggles made by the International Committee of the Red Cross (ICRC) and the Afghan Red Crescent Society (ARCS), the government will have to prevent from inflicting sufferings on civilians in two ways:

First Afghan and foreign soldiers must operate with due consideration to civilians' lives. Second, those who are involved in war crimes must be prosecuted on fair justice. In addition, the militant fighters must not be given the chance to violate the IHL to that great extent. Based on the aforementioned facts, the militant fighters are involved in war crime and must be prosecuted fairly as soon as they are captured. Furthermore, the international community must take more serious step to prevent from civilian casualties and violation of their rights and dignity in ongoing conflicts in the region, mainly in Iraq, Syria, Yemen, and Afghanistan.



The Root of Natural Rights

By Hujjatullah Zia

Natural rights have been the issue of controversy from the time of Greek philosophers up to now. Initially, mankind was not considered equal in rights and freedoms, mainly from the viewpoint of Plato and Aristotle who believed that being slave or free is natural and inherent and there should be distinction between them. Cicero believed that law is not the product of mankind but it has a divine root. According to him, the man-made law derives its legitimacy from the divine law and all mankind is equal in the eye of natural law.

Blessed Augustine talks about the City of God and Earthly City. The City of God is found in those individuals who possess real faith, whereas the Earthly City dominates in those who do not. Perhaps, the utopian society for him is found when a member of the City of God is in a position of authority. He states, "there is no happier situation for mankind, than that they, by God's mercy, should wield power". To cut short, Augustine distinguishes between the everlasting law and earthly law. Both lead to peace, however, the one peace, which derives from the everlasting law, is similarly everlasting. The other peace, which derives from the earthly law, similarly ends. According to him, a divine law is to be favored over an earthly one, and so, an everlasting peace. This is because following the divine laws lead to "life everlasting in peace". He sought to paint the law with the brush of religious mindset. In short, he stressed on religious law rather than secular one. Regarding the City of God, Saint Antony of Egypt said, "The City of God has its foundations in every place of human habitation. The kingdom of God is within. Goodness is within us and it needs only the human heart". Thomas Hobbs and John Locke, whose theories had great influence over the modern law, believe that the main reason behind natural rights is fear of death and protecting nature. That is to say, man nurtured a strong emotion in protecting their lives and feared death in the state of nature, this bred the right to life and natural rights led to the establishment of natural law. In Hobbes's opinion, the formation of society is the result of the confluence of the most powerful human emotions, namely, the fear of violent death and the most sacred right, that is, the right to safeguard the essence. However, it is believed that a religious

law will not be internationally agreed upon and might lead to controversial issues rather than bring peace and social order since there are many religions with conflicting tenets. That is to say, religious law be crucial within a society but not at a global level. For instance, the Universal Declaration of Human Rights (UDHR) has a secular root to avoid the bone of contention.

Natural rights are recognized in modern society both at national and international levels with modern concept. It is publicly believed that natural rights are inherent and inalienable rights which are not bestowed by the state but earned with birth. As it is stated in article 1 of the UDHR, "All human beings are born free and equal in dignity and rights."

They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." Hence, the fundamental rights i.e. the rights to life, liberty and property are natural rights as well as human dignity. No one, including the state, has the right to violate these rights or one's dignity. However, based on "social contract", people have agreed to have their rights restricted by the state so as to have them protected in return. Therefore, there are restrictions in natural rights and even executing one on the basis of law is allowed for establishing law and order in a society.

To sum up, it is believed that fear of death and tendency for self-defense, according to Hobbs and Locke, are the main reason behind the establishment of natural rights. To protect natural rights, the states need to approve natural law. Secondly, although natural rights are not bestowed by governments, there are restrictions from the government to establish law and order in a society. So, natural rights are not absolute. The third issue is that approving law, be it rooted in religion or secularism, is to free the society from the state of nature and form a civil society, where the rights and dignity of mankind are protected and people live a peaceful and dignified life.

Last but not least, despite the ideas of Greek Philosophers such as Plato and Aristotle, all humans are equal in rights and dignity on the basis of modern idea and international instruments and no one is born slave rather "all human beings are born free and equal in dignity and rights."

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Strife in Jerusalem: Fears of popular Revolts Bring Israel and Arabs Together

By James M. Dorsey

A web of formal and informal Israeli-Arab relations and common fears of renewed popular uprisings that could threaten regimes and benefit Islamist groups like the Muslim Brotherhood facilitated Israel's backing down in the crisis over Jerusalem's Temple Mount or Haram al Sharif, home to Islam's third most holy shrine, the Al Aqsa mosque.

Protests in recent weeks that forced Israel to lift restrictions on access and dismantle security arrangements installed on a site that evokes deep-seated emotions among Muslims and Jews alike had all the makings of a popular revolt and could yet prove to be a catalyst in approaches to Palestinian resistance to Israeli occupation of lands captured half a century ago during the 1967 Middle East war. The security equipment was initially installed after two Palestinians with Israeli nationality shot dead two Israeli policemen in the compound.

The spontaneous protests that erupted independent of established political forces such as the Palestinian Authority (PA) headed by President Mahmoud Abbas; Hamas, the Islamist faction that controls the Gaza Strip, and other Palestinian political factions, empowered Palestinian Jerusalemites who live in a part of the city that has been annexed by Israel but feel that they are routinely discriminated against. The dismantling of the security equipment and lifting of restrictions on access constituted a rare instance in which Israel bowed to Palestinian pressure.

"We Palestinians have proved, not only to Israel, but to the whole world, that we Palestinians have promising potential that can never be broken," said Palestinian activist Ali Jiddah. "We are on the threshold of a big shift. What is going on today is not random or transient. It could be the beginning of a third intifada that is different from the others. What is unique about this is that it's not individual actions, but a popular movement capable of attracting huge numbers of people. This popular momentum could recharge the Palestinian people. It may take time but we are on the way. It will override the PA. They don't even know it exists. This will bring about a change in leadership," added former Palestinian information minister-turned activist Mustafa Barghouti. The sense of empowerment was evident two days after the Israeli crackdown when protests erupted in the Jaffa section of Tel Aviv after police shot dead a Palestinian during a shootout with suspected criminals. "The policemen have no right to shoot at people. This time we will not keep quiet," said a Jaffa resident. The notion of an empowered and angry public raised not only the spectre of a possible Palestinian uprising, the third in three decades, but a potential return of street protests elsewhere in the Middle East like those that in 2011 toppled the leaders of Egypt, Tunisia, Libya and Yemen.

The Jerusalem protests erupted at a moment that Saudi Arabia and the UAE have gone to extremes to roll back the 2011 achievements and ensure that the Middle East and North Africa does not witness a repeat. Saudi King Salman, the custodian of Islam's two most holy cities, Mecca and Medina, in a statement by his royal court, claimed credit for resolving the Al Aqsa crisis through his contacts with world leaders.

The Jerusalem protests came on the back of widespread anti-government demonstrations in northern Morocco that have mushroomed since May and more recently expressed an anti-monarchy sentiment. The Moroccan protests, much like the 2011 revolt in Tunisia that forced President out of office, were sparked by the death of a fish vendor in the Riffian city of al Hoceima, who was killed by a trash compactor as he attempt-

ed to recover fish confiscated by authorities.

King Mohammed VI of Morocco, in a bid to end the unrest, this weekend pardoned more than a thousand people who were under arrest for taking part in the protests.

Two incidents, the sentencing of a scion of a key Jordanian tribe to life in prison for killing three Americans at a Jordanian air base and the extradition to Israel of an Israeli security officer who killed two Jordanians to fend off an attack, threaten to take Jordan to the brink. Outrage over the government's handling of the incidents have called into question a social contract in which Jordanians in the wake of protests in 2011 dropped demands for political reform and accepted austerity in exchange for stability.

"This has become an issue of dignity. There is a complete lack of trust and resentment toward this government by the people. We are afraid of where we go from this point," said Jordanian member of parliament Saddah Habashneh.

Much more than the Moroccan protests and Jordanian anger, resistance to Israeli actions surrounding the Al Aqsa Mosque had the potential of forcing the hand of Arab autocrats in a post-2011 era in which Arabic public opinion has begun to count. Deep-seated divisions in the Arab world coupled with draconian anti-protest laws may explain the absence of demonstrations in the Middle East and North Africa in support of the Palestinians.

Nonetheless, if Palestinians were to capitalize on their Al Aqsa success to confront Israeli occupation and discrimination, it could spark public dissent elsewhere in the region as well as the wider Muslim world that could turn against local leaders. Continued Palestinian protests, moreover, could complicate cooperation between Israel and conservative Arab states in countering Iranian influence in the Middle East as well as an attempt to return to Palestine a UAE-backed Palestinian leader, who has good relations with key figures in the United States and Israel.

Arab rulers have so far been helped not only by the absence of solidarity protests in Arab capitals, but also by indications that Arab public opinion may be divided because of the Gulf crisis over attitudes towards the Muslim Brotherhood and Hamas, both of which have close ties to Qatar. In one instance, a caller told the London-based Arabic-language Al-Hiwar television network: "I'm opposed to an Al-Aqsa victory, because an Al-Aqsa victory is a victory for Hamas and Qatar!"

Ahmed Samah al-Idarusi, a spokesman for the Popular Committee for the Defense of Sinai, a group formed by the Egyptian region's tribal leaders, complained that "we now encounter Egyptian diplomatic and cultural silence such that even the elites are not capable of releasing a single joint statement of condemnation" of Israeli actions in the Al Aqsa compound. Prominent Israeli commentator Zvi Bar'el noted that so far, the Al Aqsa protests have not sparked a third Palestinian intifada even though they had all the makings of an uprising. Mr. Bar'el argued that Palestinians were still traumatized by the political and human cost of the second intifada in the first years of the 21st century that ironically was dubbed the Al Aqsa intifada. "The tragic results of the second intifada – from both the humanitarian and strategic perspectives – have been deeply engraved in the collective Palestinian memory. It's hard to imagine what the expiry date of such trauma is... Perhaps... the trauma is still effective – but it's best not to put it to the test," Mr. Bar'el said.

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