

Status of Humanistic Rights during the Iran-Iraq War from Viewpoint of Imam Khomeini

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Today, the International Rights has developed a special branch, so-called the Human Rights, whose purpose is to support and to defend civilian prisoners and even to respect the corpses of the killed people during the civil and international wars. The principle human behavior and indiscrimination, the principle of distinction, the principle of limitation are only a number of the key principles of human rights which must be observed by the both parties of the war. Almost immediately after its Islamic Revolution, Iran faced its 8-year war against Iraq. In this article, we try to answer this question that what was the status of human rights in the Mind of Imam Khomeini, as the ideologist and commander and founder of the political-social system of Iran after the Revolution, who commanded this long war? It is thought that the human rights- derived from Islam laws, has a great status in the Late Imam's thinking and during his political life, Imam Khomeini had always emphasized the principle of human rights, especially during the eight-year war.

Human rights regulations rooted in the history, because since the development of the human societies, people used to fight each other and the wars always have been subjected to some sorts of regulations, which have been considered, observed or violated by states within centuries.

Before other legal systems in the world, the legal system of Islam has offered the principles of the human rights regulations to the human societies in order to respect and safeguard human and humanity. Before being recognized in the recent centuries, many of these principles have been emphasized by Islam and Muslim leaders. However, it was Muhammad al-Shaybani, known as the Hugo Grotius of Islam for European thinkers, who for the first time compiled the regulations and rules of war in the Hanafi denomination. Therefore, the humanistic ideas have been expressed in works of Muslim lawyers such as Ozaie, Shaybani ad later Maverdi.

The divine books have some regulations about wars. The Holy Quran has repeatedly ordered Muslims to observe human principles in directing and managing wars, as it says, "*Fight in the way of Allah those who fight against you, but do not aggress. Allah does not love the aggressors.*" (Baghara/ 190). As you see, Islam has considered observation of

human rights as something necessary and essential. It seems that, today both the Islamic Republic System and its Leader, following the Islamic rules, are loyal to the human rights.

The Concept of Human Rights

The contemporary rights defend people's rights under the title of "Human Rights". Most scholars have declared that because of historical, cultural, and economic differences, political dissimilarities and asymmetric philosophical foundations, it is impossible to offer a comprehensive and pervasive definition for the Human Rights. However, mostly the Human Rights are defined as freedoms, advantages and immunities which can be claimed as a right by all human beings through the acknowledged values in the society in which they are living. Such rights are natural and fundamental for anyone. Any human being, depart from his reputation, nationality, religion, race, color or sexuality, has some minimum rights. Thus, human rights consist of a set of values, concepts, documents of the international rights, laws and mechanisms which support status, dignity and reputation of all people and groups against governments, only because they are human beings.

Mainly, human rights include a collection of rules which are the case in the peace time and prevent governments from conducting intractable and illegal behaviors against their citizens. These rights include three generations: civil and political rights (first generation) economic, social and cultural rights (second generation) and solidarity rights (third generation). Historically, the human rights and humanistic international rights were developed separately, as human and humanistic rights were considered as rights of peace and war times, respectively.

The Concept of Humanistic Rights

There is no escape of wars in the human societies and unlike what political and legal scholars believe wars not only end the international rules and regulations, but also some times they bring about new rules and regulations whose purpose is to organize or legalize the behaviors of hostile opponents and to humanize the war. The war rights and/or humanistic rules and efforts leading to conclusion or definition of such rules usually are done after occurrence of destructive and all-embracing wars which result in cruel massacre of people and destruction of their properties. Like the human rights, the humanistic rights rooted in the natural rights. According to its definitions, the humanistic rights are a set of rules and regulations which are the case during armed conflicts and

direct the behaviors of the hostile parties. They also control behaviors of the neutral states and its main goal is to humanize the conflict and to restrain its detrimental consequences.

Although the principles of human and humanistic rights have been developed and extended independently, the latter includes principles and rules which restrain use of violence during conflicts and its main purpose is supporting people who are involved with the war directly, i.e. patients, the wounded, war prisoners, civilians and also restraining the consequences of war to achieve the war's purposes, avoiding vengeance and hurts which have no effect on the war's purposes.

The Principle of Distinction in the Humanistic Rights

The main purpose of the humanistic rights is enforcing the hostile parties of a conflict to distinct armies from civilians. There is a consensus among all of the legal systems on this purpose; and the humanistic rights would achieve this purpose when the hostile parties actually consider it, as well. Therefore the principle of distinction only tries to distinct armies from civilians.

For the first time, the principle of distinction between civilians and armies was approved through the Saint Petersburg Declaration of 1868; it says, "The only legal goal the states need to try to achieve is to weaken the military forces the enemy." The Principle of Distinction was compiled through articles 48, 51 and 52 of the first additional protocol of 1977 and applying no condition over it has been acknowledged. ^

The Principle of Prohibition of Unnecessary Suffering in the Humanistic Rights

The June 17, 1925 Geneva Protocol is the most important international document on prohibiting the use of chemical and even microbial weapons in war, which came into effect since 1928. Terms of this protocol, which indeed is an independent international treaty, almost are similar to the Washington Naval Treaty signed in 1922. According to this protocol which has been signed by more than 140 countries in the world, using chemical weapons in wars is banned unconditionally. This protocol says that using chemical weapons and taking advantage of such lethal weapons under any condition is forbidden; however, the fact is that after the WWII states have violated the protocol many times. All conventions and protocols related to the ban of using chemical weapons have been phrased in a way that their customary nature can be inferred.

The Principle of Human Behavior and Indiscrimination in the Humanistic Eight (War Prisoners)

Rules dealing with how to behave war prisoners are one of the most important aspects of the international humanistic rules in the international armed conflicts, which enjoys some stronger executive force in contrast to the other regulations on conflicts and has been dealt with through the four Geneva Conventions. According to the regulations, in the war time, the wounded soldiers and war prisoners must be supported and both parties of the conflict are not entitled to behave them badly. Historically, war prisoners were not defined as they are defined now. The war prisoners were doomed to be killed or slavery.

However, Islam's history is full of events and stories which indicate the proper humanistic behavior of Islam to the enemy's warriors who had become prisoners during wars.

The Status of Humanistic Rights in Islam

Based on their viewpoint about mankind, different schools have different viewpoints and perspectives about war. Wars and how to fight have been considered by Islam and through Islamic texts and the Infallible Imams' teachings. Since Islam has been a social religion and its final goal was establishment of a society and improving the world, it cannot have rules about Jihad. For Islam, Human being is the essence of relations and geographical borders, colors, races and other elements are not important. Therefore, for Islam, war is not the principle, but sometimes avoiding it is impossible.

There are many verses about Jihad for God in the Holy Quran. For Islam, wars are a sort of defensive military strategy, rather being an aggressive act. Wars rooted in racism and dogmatic prejudices are denied by Islam. Wars for reaching the Islamic goals led by a Muslim Leader, which is legitimized by both Islam and People, never will be in the way of ambitious wills, personal despotism and conquest.

The Humanistic Rights from Viewpoint of Imam Khomeini (RA)

Imam Khomeini's position to war and how to fight is rooted in the Islamic texts and teachings of the Infallible Imams of Shiism. For Imam Khomeini (RA) religion and ethics are very important. His thoughts which are rooted in the religious and Islamic principles have brought a great importance for the humanistic rights during wars, as during Iran-Iraq War, they actually and practically were realized. Imam banned the Iranian forces on attacking civilian regions and places; his key guidelines to defenders of the country on

eschewing weapons of mass destruction, showing humane behavior to Iraqi war prisoners, avoiding air strikes against the civilian areas and places with immunity during wars are only some examples of observing laws in an unbalanced war condition and hostile relations. Even the harsh war condition and the enemy's violence during bombardment of the residential areas did not convince him to reconsider his ideas in this regard. Imam Khomeini believed that none of human rights and freedoms would be in conflict with the religious rules and all of these rights and freedoms are determined by the Islamic Sharia.

The ethical and moral values are key principles in the thinking school of Imam Khomeini, so the backbone of human rights need to note its important function.

In a part of his speech on the occasion of the imposed war for a group of frontiersmen, Imam Khomeini pointed to the difference between the armed forces of Iran and Iraq, out of which one can infer that Principle of Distinction: "What I want to say is that there is a difference between the armed forces of Iran and the armed forces of Iraq, there is a difference between the commanders of armed forces of Iran and the commanders of armed forces of Iraq, and the difference is that we think about Islam and act based on the Islamic rules and we don't intend to fight against the ordinary people in the streets....our hands are tied because we don't want to kill the ordinary and innocent people.....we need to act based on the Islamic rules....and they thought that there is no power here. But now they understand that there is power, but the those has power here act based on rules (*Sahifa* of Imam Khomeini, vol.3, 2000. P. 248).

On the policy of Iran to avoiding attacks against the civilian areas, in his speech to appreciate victories of Iranian soldiers on 1984, Imam Khomeini said, "Although many of their cities are under our control and our men can bombard them all, they did no bombard them at all and they must not to that, because citizens of these cities are innocent. In this war we need to hurt him (Saddam Hussein) and to kill him...." (ibid, vol. 18, 2000: p. 193).

While the enemy spared no efforts to attack, bombard and air strikes against the residential areas and the defenseless people, emphasizing the observance of the Islamic rules during war and protecting Iraqi civilians against the risk of War, Imam said, "If there wasn't the fear of hurting the noble people of Iraq, if we, our army and our nation thought like Saddam, who think reaching goals is vital even though all nations are killed....if there was something like that, you could see that Iraq has no more those who are able to do something...." (*Sahifa*, Imam Khomeini, Vol.14, 2000, p. 279).

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Analysis and study of memoirs and stories of the Iraqi war prisoners who was called “guests” by Imam Khomeini and Iranian war prisoners who was captured and tortured by the Baath regime of Iraq, who was called by the Leader of the Revolution, Ayatollah Khamenei as Azadegan (freemen), indicates the differences and realities on how the Iranian officials and authorities of the Baath Regime of Iraq thought about such issues. Imam Khomeini always asked officials who were in charge with keeping the Iraqi war prisoners to behave their prisoners humanly. For example, Imam says, “According to the trusted news I know that our people and armed forces behave the displaced people based on Islam and humanity principles, and I ask them all to behave kindly with prisoners, especially the wounded ones.” (*Sahifa Noor*, Vol. 13: p 257).

The Principle of Prohibition of Unnecessary Suffering

After the World War I, the most important chemical raids to civilian areas was conducted by Iraqis in 1982. The Iraqi army repeated many times its heavy raids both in the Iranian cities and inside the Iraq borders. If Iran did not use the chemical weapons during the war it was not because it could not to manufacture them, but it was because, Imam Khomeini, as the Valie Faqih, had banned using the chemical weapons. When the Iraqi forces started to use chemical weapons, military commanders of Iran proposed using of such weapons in retaliation, Imam denied this decision and said that these weapons are against the recognized religious teachings and banned using them.

Imam Khomeini did not change his opinion after the new hazards of Iraq’s chemical attacks against the civilians and he told the Commander of IRGC, “There is no difference to use them in the battle or across the cities, we disagree to use them. Producing such weapons is Haram, you are only allowed to produce protective equipment.

Source: Pažuhešhnâme-ye Enghelâbe Eslâmi

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