

III. *Jus in bello*

Lying in War: Different Ethical Justifications

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'It is crystal clear that peace and war are among the most important concerns in the world. And in both we have no choice but to lie because war, as the Prophet of God has said, is deception'.¹

Abstract: This paper tackles a very challenging issue. On the one hand, lying is held to be a vice and forbidden from an Islamic viewpoint. On the other hand, it is common ground among Muslim ethicists and jurists, or al-fuqaha', that Muslim armies are justified in lying during a war. But the question is how do they justify this position? I hope to provide answers to this question, referring to a number of methodological positions.

All Muslim scholars without exception believe that lying in war is permissible. Muslim jurists, (or al-fuqaha'), the traditional narrators, (al-muhad-dithun), and ethicists, often devote a chapter of their academic works to this issue, with titles such as 'Lying in War', *al-Katheb fi al-harb*, and discuss the problem from various perspectives. Briefly, Muslim scholars, or al-'Ulama', argue that Muslim fighters are permitted to lie during war. But how is it permissible and what are the grounds for this exception? Lying is considered one of the deadliest sins in Islam, and in many verses of the Qur'an God condemns liars in various ways, assuring them that they will go to hell. For example, one verse reads, 'the curse of Allah be upon them'. So, if lying is a grave moral crime, how can we justify it in certain situations, such as war?

Not a single verse in the Qur'an justifies lying in war. To my knowledge, no one has yet found a text from the Qur'an that defends lying in war.

1 Al-Tha'alibi, Abu Mansur. *Tahsin al-qabih wa taqbih al-hasan* (The Improvement of the Bad and Condemnation of the Good). Baghdad: 1981, p. 37.

The permissibility of lying in war is mainly found in certain traditional narratives, or *hadiths*, attributed to the Prophet Muhammad. Sunni and Shi'ite scholars claim that the Prophet Muhammad authorizes Muslim fighters to lie in war. These accounts cover much the same ground. According to the most renowned *hadith*, the Prophet Muhammad says that war necessarily involves deception, *al-harb-o khoda*, and this *hadith* is accepted by both Shi'ite and Sunni denominations. For instance al-Tabari, the great Muslim historian, Qur'an commentator and jurist, in his book *The Purification of the Sayings, Tahthib al-Athar*, deals with this *hadith* in some detail, discussing different aspects in considerable detail. The *hadith* is greatly respected by all Muslim scholars and jurists, and accordingly it forms the basis for the permission to lie in war.

However, this *hadith* requires some clarification. Firstly, there is the question of how we pronounce the term *khoda*. The most common pronunciation is *khoda*, but some philologists claim that *khada* is more correct, and others take the view that *khoda* is correct.

What is the meaning of this *hadith*? Indeed, what does it mean to say that, 'war is deception'? By analyzing some examples of when this *hadith* has been mentioned, we can come to a better understanding.

According to one *hadith*, in the war of Ahzab, or the Parties War, Amr ibn 'Abdewod, a pagan general, came to fight Imam 'Ali. To distract his attention, 'Ali said to him: 'you are one the very best Arab fighters, so why do you need other fighters to help you?'

Amr looked behind him to see to whom 'Ali was referring, but as he did so 'Ali cut both his feet off with his sword, and killed him. When 'Ali came back to Muhammad with his sword covered in blood, the Prophet asked him, 'did you deceive him?'

'Ali, answered that he had: 'O, yes. War is deception.'

The second and most famous *hadith* relevant to our subject is also attributed to the Prophet Muhammad. According to this *hadith*, a woman called Umm Khulthum is the narrator. She said, 'The Prophet only ever allows lying in three cases: in war, for making peace between people, and in marital disputes.' It is worth noting that this woman only narrates this one *hadith* about the Prophet, but it is accepted as a true *hadith*, or *al-hadith al-sahih*. All Muslim narrators, commentators and ethicists from different schools of thought, have accepted it. This Umm Kulthum was 'Uthman, the third Caliph of the Prophet's stepsister, and an early Muslim believer. No one has written anything against her and it seems that all commentators have accepted her honesty and accuracy. We cannot be sure that this

hadith was quoted literally, word for word. Indeed we don't know what the exact words of the Prophet Muhammad were in this exceptional case, which does allow for the possibility of different interpretations.

There are other *hadiths* that frankly assert that lying in war is allowed. Laying aside some minor differences, all Muslim scholars believe that Muslim fighters can tell lies in war. Thus the most important issue here is to define the meaning and boundaries of lying in war.

The boundaries and interpretations

Lying is only permissible in a state of war. Muslim scholars assert that lying is permissible only during a war, and on the battlefield. So no one can extend this permission to other situations during a time of conflict, such as a no-war no-peace state, a ceasefire, or even during a temporary ceasefire. For example, Muslim fighters cannot propose a peace agreement or seek an appeasement when their real intention is to deceive the enemy. Therefore, lying, however it is defined, is confined to the battlefield and to war tactics and strategies. With this limitation in mind, some *hadith* narrators have included a chapter in their commentaries entitled 'the prohibition of any kind of deception, even those of a trivial nature', (*Tahrim al-ghadr walow Shi'ahyessira*). They have collated relevant *hadiths*, asserting that deception refers to all, even the enemy. One *hadith* attributed to the Prophet Muhammad reads, 'If anyone has an agreement with another party then they should not do anything to contravene it, until the agreement has come to an end'. This teaching is rooted in the Qur'an. According to this fundamental Muslim scripture, all Muslims are obliged to obey such solemn commitments, unless the other party in an agreement violates it first. If this happens, Muslims are obliged to inform the other side who have invalidated the agreement, that they are now no longer bound by its content.

Thus, lying is permitted only in the state of war, or to be more accurate, on the battlefield. Lying in such a situation involves all kinds of deceptive tactics, including exaggerations and withheld information in order to mislead the enemy. However, when it comes to peace talks, ceasefire, and armed peace, then any kind of deception, include lying, is strictly forbidden. Lying becomes a form of treachery and infidelity, and it is against Islamic teaching.

Why lying in war is permitted?

In what follows, I will discuss the main approaches and arguments for and against lying in war. The various positions can be summarized as follows:

1. When lying in war is permissible, because God, or Shari'ah, has allowed it.
2. When lying in war is permissible, because it is necessary.
3. When lying in war is not permissible, but deception is.
4. When lying in war is basically prohibited.

1. When lying in war is permissible, because God, or Shari'ah, has allowed it.

According to this approach, there is nothing intrinsically bad about lying. God prohibits lying, but he himself has allowed it in wartime. Ibn Hajar al-Asqalani, attributes this position to Abu-Bakr ibn al-'Arabi, the great Maliki jurist.

This justification is rooted in the Ash'ari school of thought, equivalent to the divine command theory in Christianity.

The strongest defender of this interpretation is al-Ghazzali, (1058-1111 the great Sufi and Ash'ari thinker and jurist. In his masterpiece, *The Revival of Religious Sciences*, he devotes a chapter to the evils to do with slander, (evils of the tongue). In this chapter al-Ghazzali introduces and addresses twenty vices and evils of the tongue, including backbiting, cursing, false promising, mocking and lying. 'Lying is,' he writes, 'one of the worst sins and an abomination of defects'. Then he narrates many *hadiths* attributed to the Prophet Muhammad, including the sayings of his companions. According to one of these, the Prophet said, 'the worst betrayal is that you tell your brother something and he believes you, when you are lying.' Furthermore, he quotes from 'Ali ibn Abi Talib - one of the most important Imams of the Shi'ite school - 'the most heinous sin in the sight of God is the lying tongue'.

Al-Ghazzali mentions more than thirty *hadiths* and sayings with a single theme: lying is a grave and heinous sin and should be condemned. The sole argument for him is what the Prophet said against lying. Thus, he believes, according to the Ash'ari school of thought, that lying is utterly forbidden, because God and the Prophet have said so.

At the end of this discussion, he adds that lying is not forbidden *per se*, but because of its harmful effects on the victim. The least of this harm is that the victim is made to believe something that is not true. On the other hand, some forms of deception may have merit, so it follows that any form of lying that falls into this category may be permissible, and may sometimes be obligatory. Maymon ibn Mehran has said that lying in some situations is preferable to telling the truth. Suppose a man with a sharp sword is chasing an innocent man in order to kill him. Then he comes to you and says, ‘Did you see a man running away?’ What do you say? Don’t you say, ‘No, I didn’t see him’? You would not tell him the truth. This kind of lying is obligatory.

Accordingly, al-Ghazzali continues, we say that speech is a means to certain goals, and a desirable goal may be achieved either by lying or by telling the truth, even though lying is strictly speaking forbidden. But if we can only achieve our goal by lying rather than telling the truth, as long as our goal is permissible then lying is permissible too. If the goal is obligatory, such as saving the life of a Muslim, then again, lying is obligatory. Therefore, if telling the truth could lead to the death of a Muslim fleeing from a would-be assassin, then we have to lie. And if our purpose in a war requires lying, or making peace between people requires lying, then we are permitted to lie. Nonetheless, we should avoid lying whenever possible, because there is always a danger that we will learn to lie in situations where it is not necessary.

After this analysis, al-Ghazzali adds that the main reason for this exception is to be found in the words of the Prophet Muhammad, permitting lying in certain situations, including during war.

To summarize, al-Ghazzali denies the necessary evil of lying, declaring that there are situations when we are permitted to lie in war.

2. *Lying in war is permissible, because it is necessary*

War is an emergency situation and thus lying can be acceptable. In war there will be bloodshed and many innocent people, including civilians, are killed. So Islam does not approve of it, except in very limited situations. If war, which is the supreme example of violence, is justified in some situations, then lying in war, which is less violent and less harmful than offensives carried out during a war, can be justified. Abod al-Rahman Hassan Habanke, a contemporary Muslim writer, following this kind of argument,

writes, 'it is clear that war involves deception and trickery. War and killing is basically forbidden, but in cases of necessity they are allowed. Similarly lying to the enemy during a war is permitted, and lying in many cases is less harmful than killing'.² According to this kind of justification, lying in war is permissible as a lesser evil.

3. *Lying in war is not permissible, but trickery is*

According to this approach, what happens in war involves deceiving the enemy, rather than lying to him. There is a fine line between lying, deception and trickery. When I lie, I state something, by writing or speaking, which I don't believe to be true, to mislead the listener or the reader. For example, if as a general I declare that from tomorrow we will unilaterally end the war, but in fact I have no intention of doing so and merely intend to deceive the enemy, then I have blatantly lied. But if I order my soldiers to withdraw, without saying anything about my intentions, and then secretly get my troops ready for attack, then this is a permissible wartime deception. In both these two cases my enemy has been deceived. In the former it is because of my outright assertion, while in the latter I have not said anything about my intentions, but the enemy, without any rational justification, has mistakenly interpreted my actions as a sign of wishing to make peace.

According to this interpretation, I am only responsible for my words, but I have no responsibility for the mistaken interpretations of my enemy. In fact, martial withdrawal has at least two equally important possible meanings: the first is an informal sign of good will and ceasefire, but the second is evidence of troops being readied for attack. It follows that it is the enemy army's leaders who are responsible for interpreting my actions accurately and logically.

Muhallab, as ibn Hajar claims, defends this viewpoint, and strongly asserts that Islam never permits any kind of clear-cut lying.³ So lying is nev-

2 Habankah Al-Midani, Abd al-Rahaman Hassan. *Al-akhlaq Al-Islamieh wa 'Osooha* (Islamic Ethics and its Foundations). Damascus: Dar Al-Qalam, 1407 AH, vol. 1, p. 554.

3 Ibn Hajar Al-Asqalani. *Fath al-Bari besharh sahih al-Bokhari* (The Victory of God in the Interpretation of *Sahih al-Bokhari*). Beirut: Dar Al-Adyan, (No date), 6. p. 184..

er justified, but we can behave in such a way that the enemy misunderstands our intentions and is deceived.

4. Lying in war is basically prohibited, and there is no room for lying in the war

This interpretation is based on an analysis of lying and its essence. If we lie, as rational human beings, we lie intentionally and purposefully. Our main intention in lying is to deceive someone, because we think that by deceiving them we can achieve our goal. To achieve this goal, we behave as if we are stating the truth, to make them believe us. Our victim will believe us, only when she or he trusts us. So, we need to be trusted to be believable.

Now, the question is, who should we trust? And what kind of behaviour leads to trust? We only trust people whom we think are honest, truthful and benevolent. Based on our experience, we decide to trust or distrust a person, and this decision is usually made according to some criteria, such as honesty, truthfulness and benevolence. Yet, we believe, rightly or wrongly, that our enemy is neither honest, nor truthful, nor benevolent. So, we have no reason to trust them, and we have to put aside this charitable principle when we interpret their words and actions. Furthermore, we have to look at what they say and do with suspicion. The Greek myth of the Trojan horse is a caution against ignoring such suspicions. After the wooden horse is taken within the walls of Troy, the young Trojan soldiers consider it to be a symbol of good will; the sages of the city think otherwise. The tragic results of such blind trust in an enemy demonstrates that the best policy in war is distrust. If we take this analysis on board, then we should not trust our enemy, because trusting an enemy is both dangerous and foolish. The basic rule of war is to distrust our enemies, unless we have sufficiently good reasons to think otherwise. In this situation and on the battlefield, the fighters should use any tactics available to deceive their enemy, and this right applies to both sides. No one would be wise to believe their enemy or interpret their actions according because they want to think the best of people. On the contrary, it is better for each side to be cautious and not trust their enemy, unless there are good reasons to do so. Therefore, lying in war is permissible, because there is no trust, and because abusing an enemy's trust is the name of the game. So, we can conclude that lying in war is not an exception to the proscription against ly-

ing, as it is in effect not lying at all – rather it is a kind of acceptable trickery in the context of wartime tactics.

Conclusion

In this brief paper, I have attempted to classify different justifications for lying in war - which may well be incomplete and need further amendment. But my main point here is that though we cannot live a good life and be a liar, we cannot avoid lying altogether. It seems to me that we may agree that lying is a moral sin and unacceptable, but at the same time, most of us believe that there are some situations in which lying is acceptable. For example, lying in the face of torture or other forms of duress is acceptable. No one, for example, condemns the nun who lied to Inspector Javert to save Jean Valjean in Victor Hugo's *Les Misérables*. Kant, an absolutist philosopher who opposed any kind of lying and for any reason, had no choice but to allow it in certain situations. In his essay, 'On a supposed right to lie from altruistic motives,' he declares that when we have only two choices, telling the truth or lying, it is our unique and single duty to tell the truth even to the murderer at the door. However, in his lectures on ethics, he asserts that in some situations, being truthful to an enemy, or to someone who wants to hurt us, may result in our becoming a defenceless victim.

So, the question is not whether we are justified in lying in any circumstances, or whether we have an absolute duty to tell the truth, rather when and in what circumstances we are justified in lying. On the battlefield and when fighters are perpetrating the worst atrocities, lying, which is less violent than other crimes, is an ethically permissible option. Moreover, we may take the view that we have no obligations towards an enemy and that our first and foremost duty is to save our own lives.