

Emir Abdelkader Algerian Was A Pioneer in Applying the Principles of International Humanitarian Law Before its Codification - A Comparative Study With International Instruments of International Humanitarian Law –

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Abstract: The practices of Emir Abdelkader al-Jazairi during his resistance against the French occupation (1832-1847) stand out as a pioneering practical application of the principles of international humanitarian law, predating their formal codification in international instruments. This precedent is undeniable. The Emir applied these principles voluntarily on the ground, without any international legal obligation, through strict adherence to the principle of distinction. He prohibited targeting civilians and civilian property and provided special protection for women, children, and the elderly. He offered medical care to the wounded and sick on both sides, while also protecting medics and medical facilities. In 1842, he issued a written internal code of conduct for the treatment of French prisoners, prohibiting torture and cruel treatment, guaranteeing their religious freedom by providing priests and spiritual care, establishing a system of rewards and penalties to ensure compliance, and allowing for the release of prisoners without ransom or waiting for the cessation of hostilities. His humanitarian commitment extended to rescuing thousands of Christians in Damascus in 1860, transcending the scope of conventional warfare. The Emir derived all these practices from the rules of warfare in Islamic Sharia, not from an international obligation that would have made him a historical pioneer in the practical application of the principles of international humanitarian law. This raises a fundamental question about the extent to which Emir Abdelkader can be considered a true pioneer of international humanitarian law, given his success in practically and bindingly applying its principles in the absence of any international obligation. To what extent do his documented practices represent a historical precedent that makes him a pioneer in the early codification of international humanitarian law compared to the 1949 Geneva Conventions and Additional Protocol I of 1977?

Keywords: International humanitarian law, principle of distinction, treatment of prisoners of war, Emir Abdelkader, humanitarian pioneering, Islamic warfare, Geneva Conventions, Additional Protocol I 1977, 1842 Code of Treatment of Prisoners of War, voluntary commitment.

Introduction

International humanitarian law, also known as the law of armed conflict or the law of war, is a branch of public international law. It deals with regulating armed conflicts and mitigating their impact on humanity by establishing binding legal rules that protect those not participating in

hostilities and restrict the methods and means of warfare employed. This law has evolved over centuries of accumulated human civilization. However, the practical embodiment of its principles did not wait for their formalization in international agreements; rather, it was preceded by pioneering humanitarian practices from various civilizations.

The comparison between theory and practice in this field is one of the most delicate and sensitive legal issues. The true value of law lies not in its abstract texts, but in its practical applicability and in the ability of political and military leaders to translate principles into tangible actions that make a real difference in people's lives. Herein lies the importance of the figure of Emir Abdelkader al-Jazairi (1808-1883), whom history has proven to be not merely a theoretical thinker, but a prominent field commander who applied these principles with determination and persistence. Under harsh wartime conditions that lasted fifteen years, from 1832 to 1847, and under immense military and political pressure, in the context of an unequal armed conflict against a superior colonial power, Emir Abdelkader was able to establish the modern Algerian state with integrated institutions and lay down written rules governing the conduct of his fighters towards enemies, prisoners, and civilians. In the midst of these wars, Emir Abdelkader did not merely apply humanitarian principles in practice, but transformed them into a binding institutional system, predating modern international law by more than a century.

This research examines the practical applications of the Emir's humanitarian principles in his wars against the French occupation, comparing them with contemporary international legal texts, particularly the 1949 Geneva Conventions and their Additional Protocols of 1977. The central question, therefore, is how Emir Abdelkader practically applied the principles of international humanitarian law in his treatment of civilians, the wounded, and prisoners. To what extent do these practices align with contemporary international legal texts? And can these applications be considered a historical legal precedent worthy of study and documentation? To answer this problem, we divide the research into two sections: the first deals with the principle of discrimination in the actions of Emir Abdelkader; and the second deals with the treatment of prisoners of war in his practices.

Section One: The principle of distinction in the actions of Emir Abdelkader

The principle of distinction is considered the cornerstone of contemporary international humanitarian law, as it obliges the parties to an armed conflict to distinguish at all times between combatants and civilians, and between military and civilian targets. Article 48 of Additional Protocol I of 1977 stipulates that: "To ensure respect for and protection of the civilian population and civilian objects, the parties to the conflict shall at all times distinguish between the civilian population and combatants, and between civilian objects and military objectives, and shall direct their military operations only against military objectives."¹

However, this principle, which Western jurisprudence has attributed to the development of international humanitarian law in the 20th century, was practically applied by Emir Abdelkader in the 19th century, based on the principles of Islamic Sharia, which explicitly prohibit targeting

¹ article 48, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977>

civilians and civilian property. Therefore, we will examine in detail how the Emir implemented this principle in protecting civilians and the wounded, highlighting his precedence in applying rules that were not codified internationally until more than a century later. In this context, we ask how Emir Abdelkader applied the principle of distinction in his wars? What guarantees did he provide to civilians and the wounded in the absence of binding international legal texts? And to what extent can his practices be compared with Additional Protocol I of 1977 and the Fourth Geneva Convention of 1949? Therefore, we will address... The first section will examine the protection of civilians in the practices of Emir Abdelkader, while the second section will address the protection of the wounded and sick.

The First requirement: The Protection of Civilians in the Practices of Emir Abdelkader

The protection of civilians from the effects of armed conflict occupies a fundamental position in the structure of international humanitarian law, as it is one of the most important objectives that this law seeks to achieve. Military practices in Europe during the nineteenth century and in its colonies were far removed from this principle, as wars deliberately targeted civilians as a means of political, military, and economic pressure, and massacres and genocides were used as legitimate tools² of war. However, Emir Abdelkader of Algeria was ahead of his time in this regard. He issued strict decrees prohibiting the targeting of civilians and imposed deterrent penalties on those who violated these orders, basing his rulings on explicit religious texts that forbid the killing of women, children, the elderly, and monks, and prohibit the destruction of property, trees, and crops.

Therefore, we ask: What practical measures did Emir Abdelkader take to protect civilians during his wars? And how do these measures compare with contemporary international legal texts, especially Article 48 of Additional Protocol I? And what about Article 27 of the Fourth Geneva Convention? Therefore, we will address the prohibition of targeting civilians and civilian property in the first section, and then the protection of women, children, and the elderly in the second section.

First branch: Prohibition of Targeting Civilians and Civilian Property

Emir Abdelkader al-Jazairi was careful to distinguish between combatants and civilians in his military operations. He issued strict written orders to his soldiers not to target civilians and to prevent the destruction of crops and civilian property³, emphasizing that war should be waged only against combatants⁴, not against innocent civilians. Historians have documented these practices, noting that the Emir severely punished anyone who violated these orders, applying deterrent penalties including flogging, imprisonment, and in some cases, execution.

The Algerian historian Belkacem Saadallah also confirmed in his book, "A General History of Algeria," that Emir Abdelkader always distinguished between combatants and civilians in his military operations and that he was careful not to harm French civilians living in the areas under

² Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 2nd ed. (Cambridge: Cambridge University Press, 2010), p89. <https://doi.org/10.1017/CBO9780511845731>

³ - Belkacem Saadallah, *General History of Algeria*, Part 2, Dar Al-Gharb Al-Islami, Beirut, Lebanon, 1980, p. 245.

⁴ Charles Henry Churchill, *The Life of Abdel Kader, Ex-Sultan of the Arabs of Algeria*, London: Chapman and Hall, 1867, p 145. <https://www.gutenberg.org/ebooks/77174>

his control, considering them protected persons⁵. Furthermore, the Emir issued orders prohibiting the destruction of property or the killing of civilians. He even applied these orders to his closest followers.⁶

Comparing these practices with contemporary international legal texts, we find that Article 48 of Additional Protocol I of 1977 explicitly affirmed this principle, stating that "civilian objects and the civilian population must be respected and protected, and that military operations shall be directed only⁷ against military objectives." Article 51 of the same protocol also prohibits attacks that cause incidental loss of civilian life or injury, or damage to civilian property, which is excessive in relation to the concrete and direct military advantage anticipated.⁸

What is striking here is that Emir Abdelkader applied this principle more than a century and a half before it was codified in Additional Protocol I, in the absence of any international legal obligation to do so. He based his actions on the principles of Islamic law, which explicitly prohibit the killing of women, children, the elderly, and monks, and forbid the destruction of property and trees.⁹

This highlights that international humanitarian law was not born in a vacuum, but is the product of a shared human civilizational accumulation in which non-Western civilizations contribute a substantial contribution no less important than the European contribution.

The second branch: Protection of women, children, and the elderly

Emir Abdelkader's practices were not limited to prohibiting the targeting of civilians in general, but extended to include special protection for the most vulnerable groups: women, children, and the elderly. He issued decrees mandating their protection and forbidding any attacks against them under any circumstances¹⁰ The Emir's mother, Lalla Zohra, played a prominent role in caring for female prisoners and civilians, personally overseeing their care and ensuring they were treated with dignity.¹¹

Charles Henry Churchill¹², in his book "The Life of Abdelkader," noted that the Emir was deeply troubled by the sight of women as prisoners, as the mere thought of women becoming victims of war was a constant source of anxiety for him. The Emir's mother became the guardian of all the female prisoners, setting up their tent next to her own, and forbidding anyone from approaching them without her permission. She personally fed the prisoners and attended to any who fell ill.¹³

⁵ Belkacem Saadallah, General History of Algeria, Part 2, p. 260.

⁶ Charles Henry Churchill, The Life of Abdel Kader, p145.

⁷ Article 48 of Additional Protocol I of 1977

<https://ihl-databases.icrc.org/en/ihl-treaties/api-1977>

⁸ Article 51(5)(b) of Additional Protocol I of 1977.

<https://ihl-databases.icrc.org/en/ihl-treaties/api-1977>

⁹ - Muhammad Yusuf Adas and others, International Humanitarian Law, 1st ed., Al-Halabi Al-Haqiqa Publications, Beirut, Lebanon, 2005, p. 15.

¹⁰ Belkacem Saadallah, General History of Algeria, Vol. 2, p. 260.

¹¹ - John W. Kiser, Commander of the Faithful: The Life and Times of Emir Abd el-Kader, New York: Monkfish Book Publishing, 2008, p102. <https://www.monkfishpub.com/commander-of-the-faithful>

¹² - Charles Henry Churchill, The Life of Abdel Kader, p200.

¹³ - Twist Islamophobia, "Emir Abdelkader, nationalism and human rights" (2022).

A comparison is worth noting here with Article 27 of the Fourth Geneva Convention of 1949, which stipulates that "protected persons shall in all circumstances have their persons, honor, family rights, religious beliefs, practices, customs, and traditions respected. They shall in all circumstances be treated humanely and shall be especially protected against all acts or threats thereof and against insults." Paragraph 2 of Article 27 further states that "women shall be especially protected against any attack on their honor, in particular against rape, forced prostitution, or any other form of sexual assault."¹⁴

The humane treatment and commitment shown by Emir Abdelkader in protecting women, children, and the elderly constitutes a historical precedent in the conduct of military leaders, especially given the harsh wartime conditions Algeria was experiencing. The Emir thus predated international legal texts, which reaffirms the cumulative, rather than unilateral, nature of this law. This underscores that the principles of international humanitarian law are the product of a shared human civilization. It is also worth mentioning the role of women in this context, represented by the Emir's mother, Lalla. Zahra highlights the importance of women's participation in establishing a humanistic culture, an aspect often overlooked by researchers in their traditional studies.

The second requirement: Protecting the wounded and sick on both sides.

The nature of armed conflicts imposes a fundamental obligation to care for the wounded and sick on the battlefield. This is considered one of the most important obligations of contemporary international humanitarian law, as humanity requires providing assistance to those in need without discrimination among combatants. Article 12 of the First Geneva Convention of 1949 stipulates that "in all circumstances, the wounded and sick members of the armed forces must be respected and protected. The party to the conflict under whose authority they are must treat them humanely and care for them without any adverse distinction."¹⁵

Therefore, we pose the question: **How did Emir Abdelkader treat the wounded and sick on the battlefields? Did he provide medical care to the wounded on both sides? And how do his practices compare with the First Geneva Convention and Additional Protocol I?** We will answer this question in the first section, "Providing Medical Care to the Wounded on Both Sides," and in the second section, "Protecting Medical Personnel and Facilities."

First branch: Providing Medical Care to the Wounded Both sides

Emir Abdelkader al-Jazairi was a pioneer in providing medical care to the wounded, regardless of which side they belonged to. He ordered his soldiers to collect the wounded from both sides after every battle and provide them with the necessary treatment. He also established well-equipped field hospitals¹⁶ to care for the wounded and provided doctors and medics to treat

¹⁴ Article 27, paragraph 2, Fourth Geneva Convention
<https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949>

¹⁵ - Article 12, First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949.
<https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949>

¹⁶ Charles Henry Churchill, *The Life of Abdel Kader*, P156.

them¹⁷. The French historian Charles Henry Churchill documented these practices, noting that the Emir would order the collection and treatment of wounded French soldiers alongside his own, and even allowed wounded French soldiers to return to their troops after their health had stabilized.¹⁸

Ambassador Idriss Jazairi, in his lecture at the Oxford Centre for Islamic Studies, stated that the Emir "developed a code in 1842 for the protection of prisoners. The code recognized the right of prisoners to have a chaplain and to share the same material conditions as the Emir's forces."¹⁹

These practices are entirely consistent with Article 12 of the First Geneva Convention, which stipulates that "the wounded and sick must in all circumstances be respected and protected. The party to the conflict under whose authority they are placed must treat them humanely and care for them." Article 15 of the same agreement also stipulated that "at all times, and especially after the engagement of combat, the parties to the conflict shall, without delay, take all possible measures to search for, collect, protect from pillage and ill-treatment, and ensure the necessary care for the wounded and sick."²⁰

Providing medical care to the wounded on both sides is one of the most prominent manifestations of humanity in the thought of Emir Abdelkader al-Jazairi. At a time when prevailing military practices dictated killing the wounded or leaving them to their fate, the Emir ordered their collection and treatment. This conduct highlights the depth of his understanding of humanitarian principles and his precedence in applying them before they were codified in international agreements. It should be noted here that this principle also aligns with the principle of non-discrimination stipulated in Common Article 3 of the four Geneva Conventions.

The second branch: Protection of Medics and Medical Facilities.

Emir Abdelkader's concern extended beyond caring for the wounded alone; it also included protecting medics, doctors, and medical facilities. He ordered that doctors and medics on the battlefield be respected and not targeted or arrested, considering their work a humanitarian duty that transcended military considerations. He was careful to avoid targeting or destroying field hospitals, and even provided them with the necessary protection.²¹

The Algerian historian Belkacem Saadallah noted that the Emir assigned a skilled doctor to his soldiers and provided the sick with a special room equipped with food and blankets, paying the doctor's salary from the state treasury.²²

A comparison is worth noting here with Article 19 of the First Geneva Convention, which states that "medical units may not be attacked under any circumstances."

¹⁷ Idriss Jazairi, *The Heritage of the Emir Abd el Qader el Jazairi or the Universality of Islamic Values*, Lecture, Oxford Centre for Islamic Studies, Oxford University, 15 February 2017. <https://www.oxcis.ac.uk/>

¹⁸ Charles Henry Churchill, *The Life of Abdel Kader*, p167.

¹⁹ - Idriss Jazairi, "The Heritage of the Emir Abd el Qader."

²⁰ Article 15, First Geneva Convention

<https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949>

²¹ - ICRC, "Emir Abdelkader: A Pioneer of Humanitarian Law" (Geneva: ICRC, 2013). <https://www.icrc.org/en/document/emir-abdelkader-pioneer-humanitarian-law>

²² Belkacem Saadallah, *General History of Algeria*, Part 2, p. 260.

Whether mobile or stationary, the parties to the conflict are obligated to respect and protect them at all times. Article 24 of the same agreement also stipulates that "medical and religious personnel performing humanitarian duties shall be respected and protected at all times."

Emir Abdelkader's commitment to protecting medics and medical facilities is conclusive proof of his profound understanding of humanitarian principles and his pioneering application of them before they were codified in international agreements. This demonstrates that the Emir did not apply these principles casually or on a case-by-case basis, but rather viewed them as a binding moral and religious obligation. This principle is also reflected in what is known today as the precautionary principle stipulated in Article 57 of Additional Protocol I.²³

It is clear from the above that Emir Abdelkader was a pioneer in upholding the principle of distinction. He differentiated between combatants and civilians, prohibited targeting civilians and civilian property, provided special protection for women, children, and the elderly, cared for the wounded on both sides, and protected medics and medical facilities. This places his practices nearly a century ahead of this codification, based on the principles of Islamic law and Sufism.

But if Emir Abdelkader adhered to this principle of protecting civilians and the wounded, how did he treat captured French soldiers? Did he apply the same humanitarian principles to them? And what guarantees did he offer them in the absence of the Third Geneva Convention, which was not ratified until 1949?

Section Two: The Treatment of Prisoners of War in the Practices of Emir Abdelkader

The treatment of prisoners of war occupies a significant place in the provisions of international humanitarian law, as it is one of the most important subjects it regulates. This is because prisoners are in a state of extreme vulnerability and require special protection against torture, cruel treatment, and humiliation. The Third Geneva Convention of 1949 stipulated a set of detailed rules for the protection of prisoners, including the prohibition of torture, guarantees of humane treatment, freedom to practice religious rites, and the release of prisoners after the cessation of hostilities.

However, these rules, considered an achievement of international humanitarian law in the twentieth century, were practically applied by Emir Abdelkader in the nineteenth century, and in some aspects, he even preceded them. In this section, we will examine the Emir's treatment of French prisoners, making a careful comparison with contemporary international legal texts. Therefore, we pose the questions: How did Emir Abdelkader address the issue of prisoners of war? What guarantees did he provide them? And to what extent do these practices conform to the Third Geneva Convention of 1949 and Additional Protocol I of 1977?

The First Requirement: Humane Treatment of French Prisoners

The treatment of prisoners in ancient and modern warfare was subject to the whims of commanders and soldiers, with killing, torture, and enslavement being common fates for

²³ Article 57 of Additional Protocol I, previous reference.

captives²⁴. However, Emir Abdelkader broke this rule, issuing strict decrees mandating the humane treatment of French prisoners and prohibiting their killing, torture, or humiliation.²⁵ In this context, we pose the question: What guarantees did Emir Abdelkader provide to ensure humane treatment of French prisoners? How did he implement these guarantees in practice? What mechanisms of accountability and punishment did he establish to ensure compliance? Accordingly, we will address the prohibition of torture and cruel treatment in the first section, the freedom and release of prisoners in the second section, and the treatment of female prisoners in accordance with their gender in the third section.

First branch: Prohibition of Torture and Cruel Treatment

The internal regulations, or what is called the "Code," established by Emir Abdelkader in 1842, explicitly prohibited the torture, humiliation, or mutilation of the bodies of the dead²⁶. He established a strict system of rewards and punishments to ensure humane treatment. Anyone who treated their prisoner well received a financial reward, while anyone who mistreated them was deprived of the reward and punished²⁷. Historians have documented that the Emir enforced these punishments rigorously, even on his own army commanders, thus creating a uniquely humane military culture.²⁸

The pinnacle of humanity is demonstrated by Emir Abdelkader's unconditional and unconditional return of all prisoners in his possession, even though he could have easily eliminated them.²⁹

These practices are consistent with Article 13 of the Third Geneva Convention of 1949, which stipulates that "prisoners of war must at all times be treated humanely. The detaining power is prohibited from committing any unlawful act or omission which causes the death of a prisoner in its custody. In particular, no prisoner of war may be subjected to mutilation or to medical or scientific experiments." Article 17 of the same Convention also prohibits physical or psychological torture or any form of coercion against prisoners of war to extract information from them. The system of rewards and punishments established by Emir Abdelkader in his practical actions during his wars against French colonialism represents a unique legal innovation in the history of international humanitarian law. While European states relied on customs and traditions in the treatment of prisoners, the Emir established a binding institutional system to guarantee humane treatment. This demonstrates that the Emir was not merely a military leader, but a legal thinker ahead of his time. This system is consistent with the spirit of Article 80 of Additional Protocol I, which addresses the implementation of international humanitarian law.

²⁴ Raphael Danziger, *Abd al-Qadir and the Algerians: Resistance to the French and Internal Consolidation* New York: Holmes and Meier Publishers, 1977, p 120.

²⁵ ICRC, "Emir Abdelkader: A Pioneer of Humanitarian Law."

²⁶ - Charles Henry Churchill, *The Life of Abdel Kader*, p145.

²⁷ - Idriss Jazairy, "The Heritage of the Emir Abd el Qader."

²⁸ - Charles Henry Churchill, *The Life of Abdel Kader*, p150.

²⁹ Leila. Boulanouar. "The Humanitarian Treatment from al-Sier and Jihad to International Humanitarian Law: The Résistance of Emir Abdelkader and the War on Terror as a Model." *CyberLeninka*, 2024. <https://cyberleninka.ru/article/n/the-humanitarian-treatment-from-al-sier-and-jihad-to-international-humanitarian-law-the-r-sistance-of-emir-abdelkader-and-the-war>

The second branch: Treatment of the Sick and Prisoners and Release Their Release

Emir Abdelkader predated international legal texts in the area of releasing prisoners. In 1835, he released approximately 74 French prisoners without ransom, and in 1842, he released another 94 because he could not feed them.³⁰ He also released sick and wounded prisoners because he could not provide them with the necessary care, preferring to return them to their troops rather than leave them in captivity without treatment.³¹

Researchers³² have noted that Emir Abdelkader returned all the prisoners in his possession unconditionally and without exchange, even though he could have easily eliminated them.

A comparison is worth noting here with Article 118 of the Third Geneva Convention, which stipulates that "prisoners of war shall be released and repatriated without delay after the cessation of active hostilities." Article 109 also stipulates the immediate repatriation of the wounded and sick if their condition so requires.

What is striking here is that Emir Abdelkader did not wait for the cessation of hostilities to release prisoners, but rather released them during the war itself, based on lofty humanitarian principles and his understanding that prisoners were not enemies but human beings in a vulnerable state. This stance even surpasses what is stipulated in the Third Geneva Convention, which requires the cessation of hostilities for release. Here, the principle of humanity is manifested in its highest form.

Third branch: Treating Female Prisoners with Dignity

Emir Abdelkader was keen to treat female prisoners with dignity. His mother, Leila Zahra, personally oversaw their care, ensuring they were treated with respect and consideration.³³ The Emir differentiated between the treatment of women and men, providing them with suitable accommodation and special healthcare and food.³⁴ He was deeply distressed by the sight of women as prisoners, as he fundamentally rejected the idea of taking women captive.³⁵

A comparison is worth noting here with Article 14 of the Third Geneva Convention, which states that "Prisoners of war have the right to respect for their persons and their honor in all circumstances. Female prisoners shall be treated with all the consideration due to their sex. In any event, they shall be accorded treatment no less favorable than that accorded to men."

Treating female prisoners with dignity demonstrates the profound humanitarian understanding of Emir Abdelkader. He recognized that women in captivity were more vulnerable and required special protection. This understanding is entirely consistent with the spirit of contemporary international humanitarian law, which emphasizes the special protection of the most vulnerable groups. This was later reflected in Security Council Resolution 1325 (2000) on Women, Peace and Security.

³⁰ Charles Henry Churchill, *The Life of Abdel Kader*, p120.

³¹ John W. Kiser, *Commander of the Faithful*, pl 88.

³² - L. Boulanouar, "The Humanitarian Treatment from al-Sier and Jihad to International Humanitarian Law."op.cit.

³³ - John W. Kiser, *Commander of the Faithful*, p102.

³⁴ - Charles Henry Churchill, *The Life of Abdel Kader* ,p155.

³⁵ - Charles Henry Churchill, *The Life of Abdel Kader* ,p200.

Second Requirement: Respect for the Religious Freedoms of Prisoners

Respect for the religious freedoms of prisoners falls under the fundamental guarantees provided by international humanitarian law, as religious freedom is a fundamental human right that may not be restricted, even in the case of captivity. Article 34 of the Third Geneva Convention stipulates that “prisoners of war shall be allowed complete freedom to practice their religion, including attending religious services specific to their faith.”

Therefore, we raise the question: How did Emir Abdelkader treat the religious freedoms of French Christian prisoners? What facilities did he provide them to practice their religious rites? And how do these practices compare with the Third Geneva Convention and Additional Protocol I? We answer this question in the first section by providing priests and spiritual care, and in the second section by treating female prisoners in a manner appropriate to their gender.

First branch: Providing Priests and Spiritual Care

Emir Abdelkader was keen to provide spiritual care for the Christian French prisoners. He wrote a letter to the Bishop of Algiers requesting that a priest be sent to the prisoners to conduct their religious services, on the condition that he not divulge any military information to them. He provided them with a suitable place of worship, allowed them to practice their faith freely, and promised that visiting priests would be treated with the utmost respect and protection.³⁶

Ambassador Idriss Djazairi³⁷ stated that in 1842, the Emir developed a code of conduct for the protection of prisoners. In the midst of the war, he convened a conference of three hundred of his army's top decision-makers and adopted this revolutionary code. The code recognized the prisoners' right to a priest and to share the same material conditions as the Emir's forces. The International Committee of the Red Cross³⁸ notes that the Emir wrote to the Bishop of Algiers requesting that a priest be sent to provide spiritual care for the French prisoners, and that this priest's duties included communicating with the prisoners' families to alleviate the hardships of captivity. This initiative, undertaken by Emir Abdelkader in 1842, at least two generations before the Geneva Conventions were formally codified, affirmed the right of prisoners of war to spiritual care and communication with their families.

These practices also align with Article 34 of the Third Geneva Convention, which guarantees prisoners the freedom to practice their religious rites³⁹. They further comply with Article 35,

³⁶ Mostapha Cherif, cited in Anastasia Kushleyko, Cédric Cotter, and Ahmed Al-Dawoody, "Three Lives, One Vision: How Dunant, Demidoff and Abdelkader Shaped Modern Humanitarianism," Humanitarian Law & Policy Blog (ICRC), May 21, 2026, <https://blogs.icrc.org/law-and-policy/2026/05/21/three-lives-one-vision-how-dunant-demidoff-and-abdelkader-shaped-modern-humanitarianism/>

³⁷ - Idriss Jazairi, quoted in Kushleyko, Cotter, and Al-Dawoody, "Three Lives, One Vision," ICRC Humanitarian Law & Policy Blog, May 21, 2026, <https://blogs.icrc.org/law-and-policy/2026/05/21/three-lives-one-vision-how-dunant-demidoff-and-abdelkader-shaped-modern-humanitarianism/>

³⁸ Kushleyko, Anastasia, Cédric Cotter, and Ahmed Al-Dawoody. "Three Lives, One Vision: How Dunant, Demidoff and Abdelkader Shaped Modern Humanitarianism." Humanitarian Law & Policy Blog, International Committee of the Red Cross, May 21, 2026. <https://blogs.icrc.org/law-and-policy/2026/05/21/three-lives-one-vision-how-dunant-demidoff-and-abdelkader-shaped-modern-humanitarianism/>.

³⁹ - Geneva Convention (III) Relative to the Treatment of Prisoners of War, August 12, 1949, art. 34, International Committee of the Red Cross, IHL Databases, <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-34>

which permits religious figures to remain and assist prisoners, allowing them to freely practice their faith.⁴⁰

Providing priests for Christian prisoners represents a rare and exceptional example of conduct among military leaders of that era. At a time when religious and ethnic wars were fueling hatred and intolerance, Emir Abdelkader offered a model of coexistence and tolerance. This demonstrates that for Emir Abdelkader, humanity was not merely a slogan, but a tangible, daily practice, a stance that is reflected today in the principle of non-discrimination based on religion.

The second branch: Protecting and Saving Christians from Massacres

If Emir Abdelkader applied these humanitarian principles in his wars, what was his stance towards Christians in Syria in 1860? Can this stance be considered a natural extension of his humanitarian principles? And how can this stance be evaluated in light of modern international humanitarian law, particularly the Fourth Geneva Convention and the Rome Statute of the International Criminal Court?

Emir Abdelkader's rescue of between 10,000 and 15,000 Christians in Damascus in 1860, sheltering them in his home and its surrounding properties, and taking the necessary and strict measures to protect them, constitutes a practical example of the principle of humanity that surpasses what was stipulated in subsequent international texts.⁴¹

The Emir's stance in Damascus in 1860 is consistent with Article 32 of the Fourth Geneva Convention, which prohibits torture and coercion⁴², as well as with Article 7, paragraph 1(h) of the Rome Statute of the International Criminal Court (1998), which considers persecution based on religion a crime against humanity.⁴³ The International Criminal Court, in the Tadic case of 1995, affirmed that the fundamental rules of international humanitarian law, including the protection of civilians, are binding on all parties to a conflict.⁴⁴

The Emir's stance in Damascus highlights that international humanitarian law is not merely a law of war, but a law of humanity in the most dire circumstances. The Emir demonstrated that religion can be a source of tolerance, not hatred. It is evident from the foregoing that Emir Abdelkader's treatment of prisoners of war was pioneering by all standards. He prohibited torture and cruel treatment, released prisoners without ransom, respected their religious freedoms, and treated women with dignity. In all of this, he predated contemporary international legal texts, basing his actions on lofty humanitarian principles that combine Islamic law and Islamic mysticism.

Conclusion

Prince Abdul Qadir was not just a traditional military leader fighting against colonialism, but rather he was a humanitarian thinker who preceded his time. He derived his principles from the

⁴⁰ - Geneva Convention (III) Relative to the Treatment of Prisoners of War, August 12, 1949, art. 35, International Committee of the Red Cross, IHL Databases, <https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-35>

⁴¹ - John W. Kiser, *Commander of the Faithful: The Life and Times of Emir Abd el-Kader* (New York: Monkfish Book Publishing, 2008), 302.

⁴² - Geneva Convention (IV), Article 32.

⁴³ - Rome Statute of the International Criminal Court, 17 July 1998, Article 7. <https://www.icc-cpi.int/resource-library/romestatute>

⁴⁴ Prosecutor v. Tadić, ICTY, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 1995.

tolerant Islamic law that emphasizes mercy, justice, and tolerance, and applied them with determination and continuity under harsh war conditions. Rather, he was a true pioneer of international humanitarian law in the field of practical application. He applied the principle of discrimination by protecting civilians, the wounded, and civilian property, treated prisoners of war with utmost humanity, respected their religious freedoms, and treated women with every consideration. In all of this, he preceded contemporary international legal texts by more than a hundred years, which confirms that he deserves the title of pioneer of international humanitarian law. Studying these practices contributes to reconsidering non-Western contributions to the development of international humanitarian law, and highlights that this law is not the product of the West alone, but rather is the product of a common human civilizational accumulation. Prince Abdul Qader has proven that the humanitarian leader does not wait for legal texts to implement humanity, but rather places it above all political and military considerations.

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