

## ***The Role of Emir Abdelkader in Establishing The Principles Of International Humanitarian Law***

**Machouche Mourad**

The University of Ghardaïa (Algeria), Faculty of Law and Political Science  
Laboratory of Law and Society in the Digital Space  
[machouche.mourad@univ-ghardaia.edu.dz](mailto:machouche.mourad@univ-ghardaia.edu.dz)

Received: 30-01-2026 Accepted: 22-05-2026 Published: 01-06-2026

---

### **Abstract:**

War has become one of the most prominent features of human history, wars and conflicts in ancient times were characterised by brutality and excessive bloodshed, over time, there was an urgent need to establish rules that should be adhered to during such conflicts, leading to the conviction that combat should be subject to humanitarian principles. Among the things mentioned about Emir Abdelkader of Algeria is that during his battles against the French colonial invasion of Algeria, he established and applied a set of laws relating to the treatment of prisoners and detainees from the enemy army, among these laws was the consideration of any Frenchman captured in battle as a prisoner of war, to be treated as such until an opportunity arose to exchange him for an Algerian prisoner, he also categorically prohibited the killing of unarmed prisoners and stipulated that any arab holding a French prisoner must treat him well.

**Keywords:** War, Prisoners, International humanitarian law, Emir Abdelkader

### **1. Introduction**

Prince (Emir) Abdelkader Ben Mohiedine, known as the founder of the modern Algerian state, was renowned for his tolerance and humanity as a man of law and a seasoned politician. He was a pioneer and trailblazer in the field of codifying the rules of international humanitarian law, as evidenced by the conventions that laid the foundations for international humanitarian law, which aims to protect human beings and preserve their rights, especially during armed conflicts. These include the 1857 Paris Convention, which abolished piracy and attacks on ships, the 1863 Lieber Code, which was directed at the Northern army during the American Civil War and

urged ethical treatment of occupied territories, followed by the Geneva Convention of 1864 concerning soldiers wounded in battle, and finally the Hague Conventions, the first in 1899 concerning respect for the rules and customs of war, and the second in 1907, which revised the first.

Despite these attempts to humanise warfare and establish binding international rules governing international conflicts, they were preceded by the ideas of Emir Abdelkader through his practices during his battles against the French colonial invasion of Algeria since 1830. These practices and actions were later enshrined in international law through the principles established by the Emir, which became apparent in 1837, even before the Red Cross was founded, through his famous exchange of prisoners in Sidi Khalifa. He then made another attempt to codify the foundations of international humanitarian law in 1843, when Emir Abdelkader issued a decree describing what constituted humane treatment, the preservation of human life, the preservation of human dignity and respect for the rights of prisoners. He specified in detail the rules governing the status of prisoners, stating explicitly that **"Every soldier of the Emir who has a French or Christian prisoner is responsible for the way he is treated and is subject to severe punishment if the prisoner complains of harm or ill-treatment..."** These ideas were enshrined and became one of the principles of the third Geneva convention of 1949 through articles 12 and 13, which emphasise the responsibility of the detaining authority not to humiliate, insult or mistreat prisoners.

From the above, we pose the following question:

**How did Emir Abdelkader contribute to the establishment of international humanitarian law?**

## **2. Emir Abdelkader al-Jaza'iri, the stages of his life and his personality traits**

It is impossible to define the image of Emir Abdelkader in the memory of history without referring to the stages of his life and mentioning his personality traits

### **2.1 Stages of Emir Abdelkader's life**

Emir Adelkader lived through three distinct stages, each with its own characteristics, events and significance. The first was spent in pursuit of knowledge, during which he learned about the situation in the Arab countries through pilgrimage. The second was spent in jihad and resistance against the enemy. The third was spent in exile, as a prisoner in France and a mujahid in Bursa and Damascus.

#### **2.1.1 The first stage (1222-1249 AH/1807-1832 AD)**

Emir Adelkader was born on 15 Rajab 1222 AH (September 1807) at his family's residence in Al-Qaytana, located on the slopes of Mount Istanbul on the left side of Wadi Al-Hamam, about twenty kilometres from the city of Masaker. He was raised by his father, the leader of the Qadiriya order and sheikh of the Qaitna zawiya, and received his early education in the zawiya from his father and other sheikhs. He mastered the Qur'an and absorbed the principles of religious and linguistic sciences. Then, as a teenager not yet fifteen years old, he travelled to Arzew to study under its judge, Sheikh Ahmad bin al-Tahir, Before moving to the city of Oran, he enrolled in the school of Ahmed bin Khoja, which was reserved for the children of dignitaries, where he spent nearly a year expanding his linguistic knowledge and jurisprudential information and refining his literary and poetic talents<sup>1</sup>.

After returning to his hometown (1823 AD), his father hastened to marry him to La La Khaira, the daughter of his uncle Sidi. After that, he decided to accompany his father on the pilgrimage to Mecca and visit the tomb of Sheikh Sidi Abdul Qadir al-Kilani, the founder of the

Qadiriya Sufi order, in Baghdad. His father and a group of his clan set out on the pilgrimage, but they did not leave the Oran region until they were intercepted by the agents of the Bey of Oran, Hassan bin Musa, who diverted them to the city of Oran. There, Sheikh Muhyiddin and his son Abd al-Qadir were placed under arrest, awaiting the Bey's decision regarding their fate. However, the good reputation of Emir Abdelkader's father, Sheikh Muhyiddin, prompted some of the Makhzen officials to intervene with the Bey on their behalf, securing their release. After this incident, which would later strain Emir Abdelkader's relationship with the Ottoman rulers and cause him to fear and be wary of the officials and agents of the Bablik, Sheikh Muhyiddin and his son Abdelkader left with some members of his family from Qaitna to perform the pilgrimage in Sha'ban 1230 AH/March 1825 AD. They travelled via the road connecting Al-Tall Al-Wassila between Algeria and Tunisia, and from there they sailed with his son and those accompanying him to Alexandria, then moved on to Cairo, where he was perhaps impressed by the reforms that Muhammad Ali had introduced to Cairo, and performed the pilgrimage<sup>2</sup>.

### **2.1.2 The second phase (1249-1265 AH/1832-1847 AD)**

This was the most important stage in the life of Emir Abdelkader, as it was marked by serious developments and major events, both in relation to his confrontation with the French and his attempt to build a modern state. This stage began when the young Abdelkader joined the volunteers for jihad alongside his father, Sheikh Muhyiddin. He became famous for his courage, good management, wisdom, patience and perseverance in his first clash with French forces at the walls of the city of Oran. This qualified him to take command of the jihad, and Abdelkader was sworn in at the Dardara tree in the plain of Ghres in Rajab 1298 AH/27 November 1832 AD. and received the general pledge of allegiance at the camp on the 17th of Ramadan 1248 AH (4 February 1833 AD). He recruited volunteers, formed regiments, and gathered the tribes for jihad to defend the faith and liberate the homeland. His successes forced the French army

commander in Oran, Demichels, to sign a treaty with him (29 February 1834 AD).

When Trézé took command of the French army in Oran, the fighting resumed, and Emir Abdelkader defeated the French army at the Battle of Maqta (18 June 1835). In order to overcome this serious setback, the French quickly turned to a policy of confrontation and launched campaigns using artillery in their attack on Emir Abdelkader's main cities. This enabled them to capture a camp and then occupy Tlemcen. However, this motivated the Emir to continue putting pressure on the French forces and inflicting losses on them in terms of men and equipment, until General Bigeard was forced to recognise Emir Abdelkader's sovereignty over western and central Algeria within the framework of the limited occupation policy enshrined in the Treaty of Tafna (30 May 1837). This allowed the Emir to devote himself to organising his state, building its institutions and subjugating his opponents and those who rejected his authority, foremost among them Kragla of Wadi al-Zaytun and the leader of the Tijaniyyah order in Ain Madhi.

The French failed to respect the spirit of the Treaty of Tafna by curtailing its provisions to suit their interests when they granted themselves the right to pass through the areas belonging to the Emir. As a result of this stance, the Emir was forced to declare jihad against the French. Emir Abdelkader held an emergency meeting at the camp of Abi Kharcha near Miliana, to which he invited all the commanders of his state, the governors of his kingdom, and a group of scholars, jurists, and opinion leaders in early June 1839, to discuss the situation and the French position on the terms of the Treaty of Tafna. It was agreed to stand firm against the enemy's transgressions. Emir Abdelkader took the initiative from his residence in Medea by writing to Marshal Valee on 18 November 1839, holding the French responsible for violating the treaty and causing the outbreak of war, saying: **"While we were at peace with you and bound by a treaty, we felt that you had acted contrary to this and crossed the known borders between our countries without my permission, without**

**prior consultation and without my knowledge... Your actions here are in violation of the treaty and render it null and void. I therefore declare that I am determined to resume the war, and God is my witness. Remove your agents from my country and warn your people residing there that you alone are responsible."**<sup>3</sup> .

In their war, the French adopted the comprehensive warfare strategy now known as scorched earth warfare, which General Bugend summarised in his threat to the Emir's men, saying: "You will not plough the land, and if you plough it, you will not sow it, and if you sow it, you will not reap it." The French resorted to repression, torture and destruction in their war. Here is what Commandant Weste recorded in his memoirs: "During a campaign launched in the southern region of Algiers, the number of villages burned and the amount of crops destroyed was unbelievable. As we passed through those areas, all we could see on either side of the road were flames."<sup>4</sup> .

This destructive plan led to the fall of the Emir's cities and military centres (1842) and forced the Emir to resort to guerrilla warfare (1844-1847), which the French countered by intensifying their attacks on the tribes until they were finally forced to refrain from providing any aid to the Emir and his followers. In a letter to the French Minister of War dated 14 November 1845, General Bigeard explained his scorched earth military strategy in these telling words: **"Can you move in all directions at the same time? Can you block all the prince's escape routes? Can you recruit 100,000 men to pursue him? Obviously, this is not possible, but it is possible to surprise the people who supply him with horsemen and provisions. This will damage these tribes after three or four months, and they will lose many of their men, whose herds will be slaughtered and whose granaries will be destroyed, so that the prince will find nothing but hardship and misery everywhere. The freedom we are fighting for with the prince can only be achieved through the continuous action of our military forces, which will destroy the Arabs and kill their horsemen. This is what the French people must understand.** Indeed, Beaufort found support

from the French people's representatives, who did not object to increasing the financial appropriations allocated to the war in Algeria and did not mind sending new army units to Algeria. Thus, the number of French troops operating in Algeria rose from 83,000 to 108,000 soldiers<sup>5</sup>, which was one third of the French army, considered at the time to be the best land army in the world. In addition, 10,000 auxiliaries and volunteers from the Makhzen tribes were recruited into the French army to serve as its vanguard and eyes in the guerrilla war waged by Emir Abdelkader<sup>6</sup>.

### **2.1.3 The third phase (1265-1300 AH/1847-1883 AD)**

Emir Abdelkader lived as a prisoner in France and an immigrant in the Levant. This phase of his life began with his transfer to France and his imprisonment in the city of Pan in southern France, then in Ambroine. After his release on 2 December 1852, Emir Abdelkader moved to Bursa in Anatolia, before settling in Damascus, Syria (1859), where he spent the last years of his life devoted to worship and remembrance, diligently performing good deeds and righteousness, and persevering in reading and contemplation<sup>7</sup>.

At the beginning of this phase, there was a difficult and painful test, and Emir Abdelkader found himself with no choice but to choose between two bitter options. He chose the latter, saying, "The poet says that the injustice of those close to you is more painful to a person than the blow of a sharp sword."<sup>8</sup>.

Emir Abdelkader would not have been forced to surrender had it not been for the Sultan of Morocco turning against him and attempting to put an end to his jihad by eliminating him or arresting him in accordance with the provisions of the Treaty of Lalla Mghnia, which declared the prince an outlaw. After most of the tribes around him had dispersed, Emir Abdelkader was faced with two choices: either to surrender to those he had fought, the French, or to those who had abandoned him, the Makhzen of Morocco. He chose what was right, according to the Ottoman Sultan when he asked to whom Emir Abdelkader had surrendered himself.

Communications regarding the surrender ended with Commander Lamouliciar, who pledged on behalf of the King of France to give Emir Abdelkader a guarantee of safety, which he had stipulated in advance, with the agreement to grant him and his followers the right of passage from Marsa al-Ghazawat to the port of Alexandria or to Acre. When the emir was certain of this, he did not hesitate to go to the French commander's headquarters on 13 December 1847, where he met Colonel De Mantmuhan near Sidi Ibrahim, where the emir had previously defeated the French army. The French commander presented him with the honours befitting a brave man and warrior commander. Here, memories of the days of jihad overwhelmed the prince, and he was overcome with the feeling of a military commander when circumstances intervene and allies abandon him. He turned to the French commander and said: **"If I had men with the same discipline and order as your men, I would now be in Fez and not standing before you."** It was not long before the commander of the French army in the Oran region, General Lamoursier, arrived accompanied by one of the senior commanders, General Cavanagh, and they all headed to the port of Mers-el-Kébir. From there, Emir Abdelkader and his followers were transported on board the ship "Salon" to the port of Grand Port. There, Emir Abdelkader began to have doubts about the French respecting their promises. Duke Dumal assured him (on behalf of the King of France) of what Lamoursier had previously promised him. Meanwhile, the French governor-general came to meet the emir, who received him on horseback among his men, then dismounted to greet him and presented him with his horse as a gift.

When he returned to his residence in Bursa, he found that he had no choice but to leave due to the violent earthquakes that had struck the city, so he moved to Damascus (1855) with the permission of the Sultan and stayed in a residence allocated to him by the Ottoman governor. This became his permanent residence, where he devoted himself to reading and reviewing books on jurisprudence, Sufism, interpretation and hadith. None of this distracted him from reading

Sahih al-Bukhari and some books on jurisprudence at the Umayyad Mosque, or from performing acts of charity and good deeds<sup>9</sup>.

## **2.2 The Prince's humanitarian stances**

However, the prince's most important humanitarian stances were recorded during the outbreak of sectarian strife in Lebanon and Damascus in particular. He did not hesitate to protect the dhimmis as required by Islamic law, opening his residence and those of his followers to receive Christians whose lives were threatened (10 July 1890). He is credited with saving around 15,000 of them. During this time, he resisted the strife and, in a bold move, went unnoticed by the observers to Zahle, where he met with the French military commander who had descended on Mount Lebanon. He convinced him to return to his bases and not to advance to Damascus until the Ottoman Empire had resolved its internal problems on its own. If his actions had been discovered at the time, many would have accused him of treason, but he was convinced that what he had done was good for everyone because he had spared the city of Damascus a massacre that would have been inevitable if the French forces had advanced towards it. This made it possible to control the situation and turned those events from an international issue beyond the jurisdiction of the Sublime Porte into an internal Ottoman affair.

## **2.3 His death**

He enjoyed good health in his youth and old age, despite the trials and tribulations of time, including jihad, struggle, and captivity in the cause of God and the homeland, which he endured with fortitude, patience, and a strong spirit. At 7 p.m. on Saturday, 19 Rajab 1300 AH, 24 May 1883 AD, he answered the call of his Lord with a contented and satisfied soul at his palace in the village of Damar near Damascus at the age of 76<sup>10</sup>.

### **3. Emir Abdelkader's contribution to the establishment and development of international humanitarian law**

Although Emir Abdelkader was at that time resisting foreign aggression against his country, and although his soldiers were only volunteer resistance fighters, the task of defending his country militarily did not strip Emir Abdelkader of his deep humanity, which was inspired by his culture and his Islamic religion. He had a different vision from his enemies and even from various Arab and Western rulers, as evidenced by the following:

#### **3.1 The Emir's view of the current circumstances**

##### **3.1.1 The concept of man according to the Emir**

The truth is that Emir Abdelkader's political life was subject to more than its fair share of ups and downs. This is not surprising: he fought for seventeen years, while at the same time befriending Napoleon Bonaparte, who released him and allowed him to go to the Levant and settle there, and allocated him an annual sum as compensation for the deprivation of his freedom. He was described by foreign consuls as a protector of Christians and a prominent Arab Islamic figure. Throughout his life, he was treated as a statesman, and he was also a man of learning, well-versed in the sciences of this world and religion. He had his own views on issues of faith, ethics, language and Sufism, making him one of the most prominent figures of the early Arab Renaissance, distinguishing him from most of them as a man of politics and thought at the same time. The life of Emir Abd al-Qadir after he assumed the emirate of the struggle against the invading French armies in 1832 until his move to the Islamic East went through two main stages:

**The first was** a period of turmoil resulting from wars, battles and violence, marked by resistance and struggle.

**The second:** a period of calm that prevailed in the prisons where the emir was held, punctuated by intensive and varied reading and quiet conversations with his visitors about issues of religion, tolerance,

freedom, anguish, women, horses, and so on. What distinguishes the prince during this period is that he appears to everyone without his traditional image as a military commander and leader of the Qadiriya order in Algeria. The "other" discovers that the prince behaves rationally, obediently, selflessly and humbly. He also did not hesitate to show his worldly knowledge and acknowledge the scientific and material superiority of "the other"<sup>11</sup>.

For us, the biography of Emir Abdelkader is alive in every sense, because, in my opinion, he represents, during the 19th century, the Islamic figure who epitomised all aspects of the glory of Arab-Islamic civilisation and its historical, scientific, political and social value. This was not easy for Emir Abdelkader, and perhaps it was enough for him that these admirable qualities earned him the appreciation and respect of his enemies in the first place. He added to them the qualities of a man of science open to knowledge, so his generous personality was at the core of the ideals that humanity today seeks to establish in order to emerge from intellectual intolerance and barbaric practices and achieve virtuous human relations among human beings, without differences or barriers dictated by religion, culture, civilisation or anything else that has caused suffering to humanity over the centuries.<sup>12</sup> .

The motives that made the prince a model of absolute tolerance, rational openness, broad knowledge, and mercy towards all creation were his upbringing in the Holy Qur'an, in accordance with the words of Allah: "And argue not with the People of the Book except in a way that is just" (Al-Ankabut 46). From the Qur'an, the prince learned fairness and objectivity in dialogue with those who differed with him in belief, for there is no presumption of a monopoly on truth, but rather the arbitration of sound logic with convincing evidence.

The reader of the Prince's heritage will find, without much effort, clear references to the truth. His human feelings may have made the Prince a perfect human being in the mystical sense, and the concept of the perfect human being was embodied in his sense of the image of

the human being in absolute terms. This was embodied, for example, in the greatness expressed by his comrades, the brave men of jihad, who, through their extraordinary sacrifices, represented the perfect human being in the field of justice and self-sacrifice in support of the truth.<sup>13</sup> .

### 3.1.2 Dialogue with others

Emir Abdelkader relied on writing and the art of address in his dialogue with others. He stated that man needs to be able to know his partner, whether through gestures, words or writing. In his autobiography, Emir Abdelkader touched on several topics, including genealogy, Islamic doctrine and its position on Christianity and the Romans, and some of the history of the Arab nation. He avoided boasting and instead highlighted the similarities and affection between Islam and Christianity, demonstrating an open mind and striving for understanding between religions and beliefs among a group of Muslim scholars who knew nothing but the virgin lips of humanity, untainted by knowledge except for what Sharia law had incorporated into the logic of monotheism, and calculations in the obligatory duties, or information about the beliefs of non-Muslims through books on religions.

His ideas can be summarised in three points that formed the essence of the dialogue between him and "the other":

**First:** proving the authenticity of Muhammad's message and demonstrating that it encompasses all divine messages, including Christianity, thereby opening up broad prospects for understanding between Muslims and Christians.

**Second:** defending Arab-Islamic civilisation and highlighting its historical authenticity, its "convergence with Roman civilisation in Abraham" and the "intermingling" that existed between Arabs and Christians. This is worthy of giving rise to new relations of cooperation between the two civilisations today.

**Third:** The justice of his cause, which was to demand the implementation of the agreement he had concluded with the son of the King of France to transfer him to the land of Islam in the East when peace prevailed<sup>14</sup> .

It should also be noted that the dialogue between Emir Abdelkader and the French had been ongoing since the armed struggle, with continuous meetings between him and military leaders such as Marshal Bugeand, and representatives of the French administration, as well as civil and military figures, in addition to his correspondence with them, which greatly prepared the Emir to take on the task of dialogue without hesitation. The prince's diplomatic activity, especially with some Western countries such as Spain, Britain and even the United States, which took place either directly or through envoys, was part of this communication effort between the prince and the Western world.

It goes without saying that the prince's family radically changed the nature of communication, as the purpose of any form of communication and dialogue was to implement the terms of that dialogue, i.e. to normalise defeat and make it inevitable. Since entering Algeria, the coloniser had accustomed us to distributing leaflets that portrayed his occupation of the country as fate and God's will, which could not be rejected or opposed (<sup>15</sup> ).

The other side was aware of the nation's state of despair and fatalism at the time, and sought to exploit this general spiritual and psychological situation in a way that served its interests in consolidating the occupation. Hence, their dialogue with the prince, who was a captive with no free will, was intended to make him accept his fate as a *fait accompli* that could not be changed. In fact, the ultimate goal of that dialogue was even more dangerous, as it aimed to inflict psychological and spiritual defeat on the enemy after his military defeat.

### 3.1.3 His respect for covenants and agreements:

We should also note that Emir Abdelkader's actions were in line with the provisions of the Additional Protocol in its third chapter, which clarifies how combatants should behave during hostilities, that the parties to the conflict do not have an absolute right to choose the means of killing without restrictions. as it prohibits killing, injuring or capturing the enemy by resorting to treachery, and considers treachery to be acts that arouse the enemy's trust with the intention of betraying that trust.

This is clearly evident in Emir Abdelkader's refusal to deceive messengers and visitors, and his respect for covenants and agreements. In his letter to D. Michel, he quoted the words of God: "O you who believe, fulfil your covenants" (Surah Al-Ma'ida, verse 01)...The occurrence of affection and goodwill towards you has conditions in our law, and any condition that is imposed on us is not permissible for us to violate, even if we are cut off from our loved ones because of it. In fact, it is part of fulfilling this condition that a Muslim who is a prisoner in the hands of Christians, if they trust him and release him, is not allowed to escape without their permission according to our law.

Further evidence of his respect for his commitments and his rejection of deception is evident in his response to De Michel, who sent him two letters asking him to stop talking. The prince replied, "You can trust that any commitment we reach will be respected on my part, and you can rely on me because I have never broken my word." Even Napoleon III acknowledged this, saying to him when he was in prison, "You were an enemy of France, but I am nevertheless prepared to treat you with complete fairness for your courage, character and patience in adversity. I also feel that honour requires me to put an end to your imprisonment and to rely completely on your word." It should be noted that the prince's correspondence with De Michel culminated in the signing of a treaty named after the French commander himself on 26 December 1834, which stipulated respect for religion and

customs, as well as diplomatic representation, and also provided for the exchange of prisoners and freedom of trade<sup>16</sup>.

### **3.2 The Prince's contributions to the protection of international humanitarian law**

The Prince's illustrious biography is replete with examples of tolerance, which Islam recommends to its followers in their treatment of all people, whether they share their beliefs or not, whether they are free or prisoners, treating them with the dignity befitting their humanity and their legitimate rights, as recently recognised by international conventions. He only raised his sword against those who came from across the seas to plunder the country, oppress its people, spread Christianity in a land whose inhabitants were Muslims, and spread French in a land whose people spoke Arabic. Therefore, there was no choice but to fight them and be harsh with them until they left the land of Arabism and Islam. This is an aspect that some scholars may have overlooked in their attempts to present only an image of the prince as tolerant, stripping him of his legitimate jihadist dimension in his time, place and historical context. The prince was also at the height of tolerance in his treatment of peaceful others and those seeking the secrets of this religion.

#### **3.2.1 The prince's view of non-Muslims**

This is evident in:

- **Religious tolerance towards others:** Anyone who reflects on the religious tolerance for which the prince was known during his time in Algeria and outside it in exile will realise that this mujahid had a level of human awareness and understanding of the reality of man and humanity that did not believe in boundaries, barriers and differences between people. It is clear from the prince's writings that he wanted to be a link between Eastern and Western man, that is, between Muslims and Christians, since "the basis and origins of religion are not disputed among the prophets, from Adam to Muhammad, peace be upon him, for they all call upon creation to unite and glorify God." He often

addressed questions to councils of scholars and senior jurists in Morocco, the Levant and France, He would respond to questions from leading scholars in the West with detailed answers, taking care not to leave any question unanswered.

Emir Abdelkader believed in the necessity of protecting freedom of belief, which is one of the most important foundations of Islam. In one of his letters, the prince said: "The application of tolerance means not coercing any believer to abandon his religion.

**- Dialogue with men of the church:** Throughout his life, Emir Abdelkader engaged in dialogue with "the other," represented by military and administrative officials, diplomats, and men of the church, and even with members of the Masonic Order, which at the time was unknown in terms of its identity and objectives, but which appeared to Muslims as a scientific society. Among the most prominent figures with whom Emir Abdelkader engaged in dialogue was Father Dupuch , bishop of Algeria at the beginning of the French occupation, who wrote a book entitled "Abd al-Qadir in the Palace of Meuse" in 1849, in which he strongly defended the prince and his right to freedom and to choose his place of exile instead of captivity in France, whose government did not keep its promise to Emir Abdelkader to transfer him to the Levant. He found himself imprisoned on French soil.

Perhaps the period of deprivation of liberty that the prince and his companions spent on French soil, with all its suffering, pain and grief, gave rise to his engagement in civilised and religious dialogue with his French and foreign visitors. The prison provided him with the opportunity to read and write, which was the main driver of the dialogue, defending the conditions of the imams, reflecting on the conditions of the aggressors, and questioning the reasons for the defeat and the nature of the great civilisational gap between the two sides.

These impressions were engraved in Abdelkader's conscience and consciousness, and through his writing of books and letters, his

mind turned to the importance of scientific and intellectual openness to the new world and the importance of human contribution to the ongoing human dialogue in the world. He then formed friendships with French thinkers and leaders, and mingled with the French scientific community until he impressed them with the breadth and depth of his readings, steeped in ancient scientific heritage. He was then chosen by the French Scientific Academy, the greatest scientific academy on earth at the time, to become a member. This is a significant indication not only of the depth of the scientists' appreciation of the prince, but also of the depth of the connection and credibility that the prince enjoyed in French scientific and intellectual circles, as well as the intensity of his communication with scientific and cultural life<sup>17</sup>.

### **3.2.2 His treatment of prisoners:**

What history remembers about Prince Ayad al-Shader is that during his battles against the French colonial invasion of Algeria, he worked to enact and implement a set of laws on how to treat prisoners captured from the enemy army. At a time when French intellectuals and educated classes cheered the occupation of Algeria and turned their backs on the values of the French Revolution and democracy they had boasted about, destroying Algerian property to force them to surrender, the state of war gave us the right to destroy the country by burning crops at harvest time and launching surprise raids to kidnap men and sheep. This was done, At the same time, Emir Abdelkader called for any Frenchman captured in battle to be considered a prisoner of war and treated as such until an opportunity arose to exchange him for an Algerian prisoner. He also categorically forbade the killing of unarmed prisoners, which is perhaps in line with the provisions of Article 3 of the Third Geneva Convention (mentioned above), which came into force more than a century later and referred to the duty to treat those who were removed from combat due to illness, injury or capture in a humane manner, without regard to colour, religion, descent, sex or lineage<sup>18</sup>.

- **Religious freedom for prisoners:** With regard to the freedom of prisoners to practise their religious rites, which was enshrined in Articles 34 and 37 of the Geneva Convention, the first article referred to the freedom of prisoners to practise their religious duties, as well as their freedom to attend religious meetings specific to their faith, while Article 37 emphasises this freedom by stipulating that a clergyman of the prisoners' religion or a similar religion must be appointed when no clergyman of the prisoners' religion is available. In this regard, we find that Emir Abdelkader wrote to the governor of Algeria words that deserve to be written in gold: "I have sent the priest to my camp and he will want for nothing. I will ensure that he is treated with respect, for he will have a dual role as a man of religion and your representative<sup>19</sup>".

- **The Emir's treatment of female prisoners:** Article 14 of the previous convention states that prisoners of war shall in all circumstances be entitled to respect for their persons and honour, and that female prisoners of war shall be treated with the respect due to their sex and shall in all circumstances be accorded the same treatment as men. The second paragraph of Article 88 states that Women prisoners of war shall not be sentenced to a heavier penalty, nor shall they be treated more severely during the execution of the penalty than women of the hostile power for the same offence.

Some examples of Emir Abdelkader's treatment of female prisoners of war are evident. We found nothing more eloquent than Churchill's description of the Emir, who said that Emir Abdelkader was very reluctant to see female prisoners, as the thought of women becoming victims of war was in itself a constant source of concern to him<sup>20</sup>.

#### 4. Conclusion

From the above, it is clear that Emir Abdelkader played a role in establishing the foundations of international law, drawing on principles derived from his practices and dealings, which were exemplary in their humanity at the time. It is wrong to consider the Geneva Convention as the beginning of international humanitarian

law, as the Prince's ideas preceded all the regulations and treaties recognised in this field.

Based on the above, it can be said that the concept of international humanitarian law was applied during Emir Abdelkader's war against the French army, as evidenced by his humane behaviour and his preservation of the dignity of individuals, whether soldiers, women, children or the elderly, in the context of war. The system he established for the army and his treatment of enemy personnel were consistent with the rules of contemporary international humanitarian law, as he distinguished between military personnel and civilians and worked to alleviate their suffering and protect property during the conflict. Therefore, the prince's thinking should become a fundamental and effective element in ensuring the comprehensiveness of international humanitarian law.

We therefore recommend the following:

- Include in educational programmes, in particular, the role he played in establishing international humanitarian law and translate relevant scientific research.
- Hold more conferences and meetings to discuss the Prince's ideas and disseminate them widely.
- Work towards international recognition of the Prince's contribution to laying the foundations of international humanitarian law.

## References

- 1- Al-Haj Ahmad al-Sharif al-Zahar, *Memoirs*, by Ahmad Tawfiq al-Madani, National Publishing and Distribution Company, Algeria, 1974, p35
- 2- Nasser al-Din Saïdoni, Muhammad Uthman Pasha, in *Famous Moroccans*, no publisher, Algeria, 1995, p75
- 3- Abdel Rahman al-Jilali, *General History of Algeria*, Part 4, Dar al-Thaqafa, Beirut, Algeria, 1980, p28

- 4- Nasser al-Din Saïdoun, op\_cit, p68
- 5- Abd al-Jalil al-Tamimi, Research and Documents on Maghreb History, Tunisian Publishing House, Tunis,p260
- 6- Ibid.
- 7- Nasser al-Din Saïdoun, op\_cit, p387
- 8- Zakia Zahra, French-English rivalry over Algeria and the position of the Sublime Porte, Master's thesis, University of Algiers, Algeria, 1997, p123
- 9- Abou El Qacem Saadallah, Lectures on Modern Algerian History, 3rd edition, National Book Foundation, Algeria, 1982, p45
- 10- Abdelrahman Al-Jilali, Op\_cit, p41
- 11- Abu al-Qasim Saadallah, previous reference, p182
- 12- Prince Muhammad, Tuhfat al-Zair fi Ma'athir al-Amir Abdelkader wa Akhbar al-Jaza'ir, vol. 2, 2nd edition, Dar al-Nahda, Beirut, 1964, p513
- 13- Ibid.
- 14- Ismail al-Arabi, The Algerian Resistance under the Banner of Emir Abdelkader, Ibn Khaldun Publishing, Algiers, 2002, p117
- 15- Ibid
- 16- Abdelhamid Zouzou, Correspondence between Emir Abdelkader and General de Michel, 3rd edition, Dar Houma Publishing House, Algiers, 2006, p3
- 17- Abu al-Qasim Saadallah, op\_cit, p44
- 18- Prince Muhammad, Op\_cit, p515
- 19- Abdelhamid Zouzou, Op\_cit, p4
- 20- Prince Muhammad, Op\_cit, p520