

**THE IMPACTS OF ISLAM ON THE ACCEPTANCE OF INTERNATIONAL
HUMANITARIAN LAW (IHL)**

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Abstract

International Humanitarian Law (IHL) seeks to regulate the conduct of hostilities and protect those not participating in conflict. Its moral and legal foundations intersect with various cultural and religious traditions, notably Islam. The principles of Islamic law (Shari‘ah)—especially those derived from the Qur’an, Hadith, and early Islamic jurisprudence (fiqh)—reveal strong historical and ethical parallels with modern humanitarian norms. This paper while examining the Islamic perspective on the law of armed conflict, its foundational principles, its humanitarian obligations, and its convergence with modern IHL, it also examines how Islamic principles have influenced the acceptance and internalization of IHL in Muslim-majority states and explores the theological, legal, and political dynamics underlying this relationship.

Keywords: Islam, International Humanitarian Law, Shari‘ah, Geneva Conventions, Jihad, Human Rights, War Ethic.

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1.0 Introduction

War is a recurring reality of human society, but law and morality seek to regulate its conduct to preserve human dignity. The Law of Armed Conflict (LOAC) or International Humanitarian Law (IHL) embodies this principle in contemporary legal discourse.

International Humanitarian Law (IHL) comprises a set of rules designed to limit the effects of armed conflict for humanitarian reasons, codified primarily in the 1949 Geneva Conventions and their Additional Protocols. While IHL developed in the Western legal tradition, it resonates profoundly with many Islamic precepts on warfare and humanity. However, Islamic civilization, since the 7th century, formulated sophisticated rules governing armed conflict—collectively known as the *Ahkam al-Jihad*—centuries before the modern codification of IHL.¹

The Islamic approach emphasizes justice, restraint, and compassion, ensuring that armed conflict remains a last resort and conducted within ethical limits.

The Qur'an and the Sunnah (teachings of Prophet Muhammad, peace be upon him) provide the primary sources, supplemented by juristic reasoning (ijtihad) from classical scholars. This framework demonstrates striking parallels with modern IHL, making Islamic law an early contributor to humanitarian principles in warfare.

The relationship between Islam and IHL is often portrayed either as harmonious or contentious, depending on interpretative perspectives. Yet, empirical evidence suggests that Islam, through its ethical and legal traditions, has both reinforced and contextualized the acceptance of IHL within Muslim societies.²

2.0 Foundations of Islamic Law of Armed Conflict

The Qur'an permits fighting only in defense and against injustice, while simultaneously prohibiting transgression:

¹ - Al-Dawoody, A. (2011). *The Islamic Law of War: Justifications and Regulations*. Palgrave Macmillan.

² - Bassiouni, M. Cherif. (2014). *The Shari'a and Islamic Criminal Justice in Time of War and Peace*. Cambridge University Press.

“Fight in the way of Allah those who fight you, but do not transgress. Indeed, Allah does not love the transgressors.”³

Thus, Islamic law rejects aggressive or expansionist warfare. It insists on just cause (sabab shar‘i) and legitimate authority (wali al-amr) as prerequisites for the use of force.⁴

Prophet Muhammad (PBUH) further codified rules of warfare through his instructions to commanders, which were faithfully preserved in hadith collections. Some of the classical jurists⁵ expanded these rules, giving rise to a sophisticated jurisprudence of war (fiqh al-jihad).

The *Qur’an* and *Sunnah* contain numerous injunctions relevant to the treatment of combatants, civilians, and prisoners of war. Early Islamic law delineated clear rules of warfare, emphasizing restraint and humanity as instructed Allah (SWT) in the above Qur’anic verse⁶.

The injunction in the aforementioned Qur’anic verse establishes proportionality and distinction—two cardinal principles of modern IHL. The Prophet Muhammad (peace be upon him) further reinforced humane conduct during warfare, forbidding the killing of non-combatants, destruction of crops, mutilation of bodies, and harm to religious figures or places of worship.⁷

Classical jurists such as Al-Shaybani (d. 805 CE), in his *Kitab al-Siyar al-Kabir*, and Al-Mawardi (d. 1058 CE), systematized these principles into a coherent body of law that anticipated the humanitarian limitations now found in the Geneva Conventions. Many scholars thus argue that the Islamic tradition offers an indigenous, pre-modern foundation for humanitarian conduct in war.⁸

³ - (Qur’an 2:190).

⁴ - Bassiouni, M. Cherif. (2014). Opcit.

⁵- like Al-Shaybani (d. 805 CE) and Al-Mawardi (d. 1058 CE)

⁶ - Qur’an (2:190) Opcit

⁷ - Al-Shaybani, Muhammad ibn al-Hasan. *The Islamic Law of Nations: Shaybani’s Siyar*. Trans. Majid Khadduri. Johns Hopkins University Press, 1966.

⁸ - Ibid

3.0 Principles of Warfare in Islam

Islam with regard to warfare has introduced some fundamental principles upon which anything related to armed conflict resides. Some of those principles can be enumerated as follows:

1. Just Cause and Legitimate Authority

Islamic law stipulates that war is only permissible for defensive purposes, to repel aggression, or to secure freedom of religion. Unprovoked aggression is prohibited. Moreover, only a legitimate head of state may declare war; vigilante warfare is impermissible in Islam.⁹

2. Protection of Non-Combatants

The protection of non-combatants is a central tenet. Prophet Muhammad (PBUH) instructed:

“Do not kill any child, any woman, or any elder or sick person.”¹⁰

Farmers, merchants, clergy, and others uninvolved in fighting were expressly spared.¹¹

3. Humane Treatment of Prisoners of War

Islam mandates humane treatment of captives, emphasizing their right to food, shelter, and dignity:

“And they give food, in spite of love for it, to the needy, the orphan, and the captive.”¹²

Prisoners could be released through ransom, exchange, or as an act of grace.¹³ Torture is prohibited.

4. Prohibition of Excessive Harm and Destruction

The Prophet (PBUH) prohibited mutilation, burning, or unnecessary destruction:

⁹ - Khadduri, Majid. War and Peace in the Law of Islam. Baltimore: Johns Hopkins University Press, 1955.

¹⁰ - (Sunan Abu Dawud, Hadith 2663).

¹¹ - Abu Dawud, Sunan Abu Dawud, Book of Jihad, Hadith no. 2663.

¹² - (Qur'an 76:8).

¹³ - The Holy Qur'an, Surah Al-Insan (76:8).

“Do not cut down trees, do not destroy dwellings, and do not kill animals except for food.”¹⁴

Thus, Islam emphasizes proportionality and necessity, akin to modern LOAC.

5. Prohibition of Treachery and Use of Forbidden Weapons

Treachery, betrayal of treaties, and poisoned weapons were expressly forbidden.¹⁵⁴ This underscores the sanctity of agreements and the prohibition of indiscriminate methods.

6. Treatment of the Dead and Injured

Respect for human dignity extends to enemy dead, who must be buried with honor. The wounded, even if combatants, are to be protected from further harm.

3.1 Comparing the principles with International Humanitarian Law

Islamic principles of warfare, codified centuries before the Geneva Conventions, align closely with modern IHL:

- a-** Protection of civilians: Similar to Geneva Convention IV.
- b-** Humane treatment of prisoners: Reflected in Geneva Convention III.
- c-** Proportionality and necessity: Parallels with Additional Protocol I of 1977.
- d-** Respect for truces and agreements: Consistent with customary international law.

Scholars such as Majid Khadduri and James Turner Johnson have argued that Islamic law anticipated many humanitarian norms now enshrined in international treaties.¹⁶ .

4.0 Theological Compatibility Between Islam and IHL

Islamic jurisprudence recognizes universal human dignity (*karamah insaniyyah*), which serves as a theological justification for humanitarian protection. The *Qur'an* states:

“We have honored the children of Adam...”¹⁷

¹⁴ - (Musnad Ahmad, Hadith 1676).

¹⁵ - Al-Mawardi, *Al-Ahkam al-Sultaniyyah* (The Ordinances of Government). Cairo: Dar al-Hadith, 1996.

¹⁶ - Johnson, James Turner. *The Holy War Idea in Western and Islamic Traditions*. University Park: Pennsylvania State University Press, 1997.

¹⁷ - The *Qur'an* (17:70)

This theological anthropology underpins an ethic of respect for human life, irrespective of race, religion, or nationality. In Islamic doctrine, even the enemy retains a measure of dignity as a creation of God.

Furthermore, Islam's concept of *adl* (justice) and *rahmah* (mercy) parallels IHL's humanitarian objectives. The Prophet Muhammad's instructions to armies...“ Do not kill women, children, or old men; do not cut down trees or destroy houses”—embody early forms of the principles of distinction and proportionality.¹⁸

Thus, Islam does not conflict with IHL but provides a moral framework that facilitates its acceptance among Muslim communities, especially when framed as consistent with divine justice rather than foreign imposition.

5.0 Islamic Influence on Contemporary Acceptance of IHL

In contemporary Muslim-majority states, the convergence between Islamic law and IHL has been institutionalized in various ways:¹⁹

- **Legal Incorporation:** Many Muslim countries have ratified the Geneva Conventions and Additional Protocols, often reconciling them with *Shari'ah* principles. For example, Egypt, Pakistan, and Indonesia have incorporated humanitarian norms into their domestic military codes.²⁰
- **Religious Legitimization:** Fatwas and rulings from institutions such as Al-Azhar University (Egypt) and the Islamic Fiqh Academy (Jeddah) endorse IHL compliance as a religious duty.
- **Humanitarian Organizations:** The International Committee of the Red Cross (ICRC) collaborates with Muslim scholars to highlight the convergence between IHL and Islamic ethics. Initiatives like “Islamic Law and IHL Dialogue Series” have fostered broader Muslim engagement with humanitarian norms.²¹

¹⁸ -. Qureshi, A. H. (2018). “Islam and International Humanitarian Law: Compatibility and Convergence.” *Journal of Islamic Studies and International Law*, 5(2): 23–45.

¹⁹ - Khadduri, Majid. (1940). *War and Peace in the Law of Islam*. Johns Hopkins Press.

²⁰ - Ibid

²¹ - International Committee of the Red Cross (ICRC). (2016). *Islam and International Humanitarian Law*. Geneva

- **Regional Practice:** In contexts such as the Hamas-Israeli conflict, the Iran-Iraq War, and internal conflicts in Afghanistan or Sudan, religious arguments have been invoked to promote adherence to IHL principles.

6.0 Challenges and Misconceptions

Despite these compatibilities, tensions persist. Critics argue that Western IHL is secular and state-centric, while Islamic law derives from divine revelation and moral obligation. This epistemological difference sometimes leads to suspicion that IHL serves political rather than moral purposes.

Additionally, non-state armed groups invoking *jihad* have occasionally misinterpreted Islamic texts to justify violations of humanitarian norms. However, mainstream Islamic jurisprudence—both Sunni and Shia—rejects such excesses, emphasizing the moral and legal limits of warfare. The misuse of religious language for political ends underscores the need for deeper education on both IHL and authentic Islamic principles.

.7.0 Case Studies²²

- **Iran:** After the 1979 Revolution, Iran reaffirmed its commitment to the Geneva Conventions, interpreting IHL as compatible with *Islamic justice*.
- **Pakistan:** Military manuals reference both Islamic and international legal sources on war ethics, illustrating hybrid legal acceptance.
- **Sudan and Indonesia:** Humanitarian outreach through Islamic NGOs has emphasized that aid to civilians and the wounded fulfills Qur'anic injunctions of mercy and protection.

8.0 Conclusion

The Islamic perspective on the law of armed conflict is built upon principles of justice, mercy, and restraint. Rooted in divine revelation and prophetic tradition, it safeguards human dignity even amidst warfare. By prohibiting aggression, protecting civilians, ensuring humane treatment of

²² - United Nations Office for the Coordination of Humanitarian Affairs (OCHA). (2019). Faith and Humanitarian Principles: Islam and Humanitarian Action. Geneva.

prisoners, and restricting methods of warfare, Islamic law laid the groundwork for principles now universalized through international humanitarian law. Thus, Islam not only provides spiritual and moral guidance but also contributes significantly to the global humanitarian tradition.

Islamic law and International Humanitarian Law share common ethical foundations rooted in the protection of human dignity and the limitation of violence. Far from being contradictory, Islamic jurisprudence historically anticipated many IHL norms. The acceptance of IHL within Muslim societies is thus strengthened when articulated through Islamic values of justice, mercy, and respect for life.

For sustained compatibility, scholars, states, and humanitarian actors must continue fostering dialogue between Islamic jurisprudence and international law. The path forward lies in recognizing Islam not as an external counterpart but as a foundational contributor to the universal humanitarian tradition.