



Islamic law and the right to life in armed conflict

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Minaret in Hit, Anbar Province (June 2023). Photo: Alannah Travers

Islamic legal traditions and the modern framework of international humanitarian law (IHL) emerged from different contexts and traditions, but they share many underlying values – such as restraint, humanity, and the protection of those not (or no longer) participating in hostilities. Islamic law therefore offers a distinct but complementary perspective to IHL on the sanctity of life (*hurmat al-nafs*), particularly in contexts where international legal frameworks lack traction, understanding, or perceived legitimacy.

In this post, and as part of our [Emerging Voices](#) series, legal researcher Alannah Travers explores how Islamic law, as its own coherent and longstanding legal tradition, offers a parallel framework of moral constraint during armed conflict. She argues that better understanding these Islamic legal norms can provide stronger grounds for compliance with protective norms, deepening our collective understanding of the right to life in war.

ICRC Humanitarian Law & Policy Blog - Islamic law and the right to life in armed conflict

At a time when the gap between legal obligations and battlefield reality is growing, we must look beyond familiar frameworks. ICRC President Mirjana Spoljaric's [warning to the UN Security Council](#) – that the failure to defend the rules of war today invites “increasing barbarity and disregard for our shared humanity” – demands innovative thinking. Islamic legal traditions may offer a principled way to resist this future. Taking Islamic law seriously is not a concession, but rather an opportunity to restore the credibility of civilian protection by engaging with the full range of legal traditions that constrain violence.

This is especially crucial given the well-versed tension at the heart of international law's approach to killing. In peacetime, the arbitrary deprivation of life is almost always unlawful – but in war, it can be routine. This contradiction is built into the distinct logics of IHL and international human rights law (IHRL) and, while *legal scholars have tried to smooth* over the divide, *it remains contested*. While IHRL regulates lethal force through a law enforcement paradigm (requiring necessity, proportionality, and an imminent threat to life), IHL mostly applies a conduct-of-hostilities (CoH) framework, which permits lethal force against lawful targets without the same constraints. What counts as “arbitrary” under IHRL must therefore be assessed in light of CoH norms during armed conflict; a nuance that complicates attempts to cleanly delineate these frameworks.

When parties to an armed conflict rely on IHL to justify acts that would clearly violate human rights in any other context, the complexities of the current legal order are exposed – although evolving jurisprudence seems to be reinforcing the importance of coherence in protection frameworks. In early July 2025, for example, the European Court of Human Rights' judgement in *Ukraine and the Netherlands v. Russia* rejected the use of the *lex specialis* principle in articulating the relationship between IHL and the ECHR (para. 428), affirming that IHL cannot displace ECHR human rights protections in armed conflict. In many ways, Islamic law does not have the same tension as it operates as its own comprehensive legal system – one that does not map perfectly onto the modern bifurcation of international law.

Islamic law can reflect features of both IHL and IHRL. For instance, its principles of restraint, due process, procedural safeguards and emphasis on intention and moral accountability often resembles IHRL's law enforcement paradigm, while its jurisprudence on the conduct of warfare (*siyar*) and rules on targeting and battlefield conduct align more closely with IHL's rules on CoH. Recognizing these points of convergence and divergence from the outset helps clarify the value Islamic law can bring to strengthening protective norms in armed conflict today.

These shared normative foundations are explored in the ICRC's collaborative volume, *Islamic Law and International Humanitarian Law* (2020). Principles such as the prohibition on targeting civilians, the protection of property and infrastructure, and the limits of military necessity are deeply rooted in Islamic jurisprudence. These principles align closely with those enshrined in the Geneva Conventions and their 1977 Additional Protocols and demonstrate that legal norms for the conduct of war are not exclusive to any one civilization or treaty system. Islamic law is not an alternative to IHL, but its shared normative foundations can be beneficial, and a valuable partner in strengthening its enforcement and legitimacy.

Foundations of sanctity and restraint

At the heart of Islamic legal theory (*Uṣūl al-fiqh*) lies a doctrine of protected values (*al-ḍarūriyyāt al-khams*): life (*nafs*), religion (*dīn*), intellect (*ʿaql*), property (*māl*), and lineage (*nasl*). These five essentials are understood as the foundational goods that the *Sharīʿah* (Islamic law) exists to preserve. For every serious violation, classical jurists prescribed concrete sanctions, whether through fixed penalties (*ḥudūd*), discretionary punishment (*taʿzīr*), or compensation (*diyāh*). In addition to worldly enforcement, these violations are also framed as spiritually consequential, reinforcing both individual and collective responsibility and accountability before God. The Qur'an and Hadiths affirm that the sanctity of life can only be lawfully taken by lawful justification, and even then, the presumption is in favour of mercy.

The Qur'an makes this clear in Q5:32 – “Whoever kills a soul – unless for a soul or for corruption [done] in the land – it is as if he had slain mankind entirely” – and Q6:151 – “Do not kill the soul which Allah has forbidden.” Building on these verses, classical jurists developed detailed rules governing when, how, and by whom life can be lawfully taken. Where Islamic law permits capital punishment, such as in cases of *ḥudūd* crimes (serious offences with fixed punishments), it imposes stringent evidentiary safeguards. For example, convictions would require the testimony of upright witnesses, with evidentiary standards so high that convictions are rare in practice. This insistence on lawful justification might sound similar to IHRL's law enforcement paradigm, which also starts from a strong presumption in favour of life, but Islamic law's framework is distinct. In both peacetime and war, the default remains that taking life is prohibited unless a narrowly defined and specific legal justification applies. Even in war, that standard remains high.

This dual accountability – legal and spiritual – adds depth to the concept of the right to life in Islamic law. It is not only that killing without right is forbidden, but that such an act represents an assault on the very order of law and society. In this sense, Islamic law does not simply echo IHL's principles – it provides an architecture that binds legal and moral constraints together for the dignity of humanity (*al-karāma al-insāniyah*). Strict standards, such as testimony of upright witnesses for capital offences, broadly converge with IHRL's insistence on necessity, proportionality, and procedural fairness to avoid extrajudicial killings.

Procedural parallels between Islamic law and IHRL

IHRL articulates the right to life as both substantive and procedural, requiring states to refrain from unlawful killings, and to investigate them where they occur, as the UN Special Rapporteur on extrajudicial, summary or arbitrary executions *frequently stresses*, promoting safeguards such as due process, judicial oversight, and the right to appeal. While Islamic law contains procedural safeguards that resemble IHRL's law enforcement paradigm – particularly in its insistence on intention (*niyyah*), credible evidence (*bayyina*), and equity (*ʿadl*) before lethal force can be considered lawful – it also contains a distinct and detailed tradition (*siyar*) that governs conduct in battle, which in many ways aligns with the IHL CoH framework. These binding norms on the use of lethal force are derived from the Qur'an, the Sunnah, and the juristic tradition of *siyar*.

This does not imply contradiction, but rather reflects the breadth of Islamic law's internal logic as it applies its own consistent ethical and legal standards across both peacetime and wartime. The key difference is that, unlike international law, Islamic law does not draw a formal line between the reasons for going to war and the means by which war is waged, which instead are held to the same integrated moral and legal scrutiny. In practice, as with IHL, the application of these norms may vary, especially in situations where accountability is weak. However, the theoretical commitment to restraint, procedure, and moral justification remains strong across domains.

In war, classical Islamic jurisprudence placed firm limits on the conduct of battle. Scholars such as Muḥammad al-Shaybānī (d. 805 CE), a foundational figure in the Ḥanafī school and the author of *Kitāb al-Siyar*, laid out rules protecting prisoners, civilians, and religious figures – and also detailed specific prohibitions and permissions regarding weaponry, such as permitting the use of poison-tipped arrows. Later scholars diverged on the use of these weapons, reflecting a broader ethical concern over indiscriminate means of warfare within Islamic legal tradition. Most traditions agree on limiting fighting to active combatants (*muqātilūn*), and the prohibition of targeting the wounded, non-combatants, or anyone who had laid down their arms, as well as post-conflict looting. Indeed, Q2:190 clearly directs Muslims, to “fight in the way of God those who fight against you and do not transgress.”

Providing food or medical care was not considered direct participation in hostilities, and thus did not forfeit protection. These rules, though developed outside the treaty traditions of Geneva and centuries earlier, mirror IHL's emphasis on distinction, precaution, and proportionality. While, due to the context in which this jurisprudence developed, there is no historical scholarship on the use of nuclear weapons, for example, contemporary Islamic scholars such as [Professor Sohail Hashmi](#) have shown how these principles also prohibit weapons of indiscriminate effect, such as nuclear arms.

Importantly, Islamic law does not limit these protections to Muslims. Many classical Islamic jurists, across schools, applied these protections universally, affirming universal humanitarian obligations. Violent acts are judged not only by the identity of the victim or perpetrator, but by their moral and legal nature. The Prophet cautioned *against indiscriminate killing*, mutilating the dead, and demolishing places of worship, and signed a treaty of protection for the Christians of Najran that their places of worship not be demolished, for example. Today, such universal logic offers a valuable normative foundation for bolstering compliance with humanitarian norms across contexts, especially in settings where local legal traditions are deeply respected and the application of international law is perceived as of Western origin.

Jus ad bellum, accountability and religious authority

One of the many challenges in modern conflict is that IHL's structure *can be stretched by parties to justify actions resulting in civilian harm*. Islamic law offers a parallel framework that theoretically resists such elasticity. For instance, while IHL permits targeting lawful combatants, Islamic law often requires a clear and direct threat to justify lethal action. However, unlike modern international law, which distinguishes between jus ad bellum (the right to go to war) and jus in bello (what conduct is acceptable during war – or IHL), Islamic law does not draw such a sharp distinction, instead treating war as a moral undertaking, subject to ethical and legal constraints from the outset. This lack of distinction means that the initiation of conflict and the manner in which it is fought are governed by a single, integrated normative framework. War, in Islamic law, is only just if both the cause and conduct align with Islamic principles – a feature that can both motivate restraint and, conversely, risk justifying excesses when the cause is deemed righteous.

The [Generating Respect Project](#), an academic initiative that examines how Islamic and other religious legal traditions engage with IHL principles, has shown how these traditions can help foster compliance with humanitarian norms and draw on local values to build respect for the law, particularly in non-Western or religiously governed contexts. Much more can be done to show how aligning protective norms with local jurisprudential traditions can contribute to more effective operationalization of IHL. At a time when the right to life is routinely compromised in armed conflict, academic problems need urgently to be translated into legal coherence that result in protection.

Operationalizing protection through legal pluralism

Far from being incompatible or in competition, Islamic law and IHL can be mutually reinforcing. For humanitarian practitioners and legal scholars alike, embracing legal pluralism is a pragmatic strategy for achieving compliance and saving lives, and recognizing that the global application of international humanitarian and human rights law depends on its perceived legitimacy and enforceability across all legal cultures.

Islamic law, with its strong protections for life and demand for procedural justice, has much to offer to scholars, states, and humanitarian actors seeking to operationalize legal protections on the ground. Those working to defend the most vulnerable must take seriously the plurality of legal and ethical traditions that already constrain violence. By clarifying the contributions of Islamic law, we can actively promote the credibility and universality of IHL in conflict situations, on all sides.

See also

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- Ahmed Al-Dawoody and Medha Damojipurapu, [Anchoring protection: Islamic law contributions to the development of the 1977 Additional Protocols to the Geneva Conventions](#), March 27, 2025
- Ahmed Al-Dawoody, [International humanitarian law and Islamic law: a principled and inclusive dialogue](#), July 25, 2024
- Ioanna Voudouri, Ezat Gul and Yari Yar Mohammad, [How do IHL and Islamic law protect and ensure humanitarian assistance in Afghanistan?](#), April 28, 2022
- Ahmed Al-Dawoody and Tilman Rodenhäuser, [The principle of non-refoulement under Islamic law and international law: complementing international legal protection in Muslim contexts](#), June 20, 2021

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