

# Protection of Children in Armed Conflicts from the Perspective of Islamic Jurisprudence and International Humanitarian Law, with a Focus on the War Crime of the Minab School

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## Abstract

Protection of children during war and armed conflicts constitutes one of the fundamental principles of both the Islamic Schools of Jurisprudence and International Humanitarian Law (IHL). This study employs a descriptive-analytical method and draws upon authoritative jurisprudential sources and international legal instruments to conduct a comparative analysis of the protection of children in armed conflicts. It subsequently examines the attack on the Minab School in light of these legal and jurisprudential standards. The findings demonstrate that the normative frameworks of both the Islamic Schools of Jurisprudence and International Humanitarian Law are founded upon the principle of inherent human dignity. Moreover, Islamic teachings had emphasized the observance of the principles of Distinction, Proportionality, and Limitation in armed conflicts centuries before the adoption of the Geneva Conventions. Accordingly, the killing of children in the attack on the Minab School constitutes conduct that is prosecutable as a war crime under the legal foundations and evidentiary principles of both legal systems. The convergence of these normative frameworks therefore provides the legal basis for judicial proceedings and the pursuit of legal accountability before national and international courts.

**Keywords:** Protection of Children; Armed Conflicts; War Crime; Islamic Schools of Jurisprudence; International Humanitarian Law (IHL); Principle of Distinction; Principle of Proportionality.

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## 1. Introduction

Among the numerous victims of armed conflicts, innocent children constitute the most vulnerable and defenceless group, whose physical and psychological well-being is devastated by the horrors of war. Although the gradual development of International Humanitarian Law (IHL) during the past century—marked by the adoption of the four Geneva Conventions (1949), the Additional Protocols (1977), the Convention on the Rights of the Child (1989), and the Optional Protocol on the Involvement of Children in Armed Conflict (2000)—has opened new horizons for the normative protection of children as a vulnerable group, the repeated violation of these legal standards remains deeply alarming. In particular, the killing of children

in the attack on the Minab School, carried out by the United States through the use of two missiles in what has been described as a “double-tap” strike pattern during the imposed war against Iran, continues to expose the profound gap between codified legal norms and their effective implementation, presenting a serious challenge to the international community.

Given the undeniable reality that many contemporary armed conflicts are concentrated within the geographical sphere of the Islamic world, and that armed actors engaged in such conflicts frequently assess the normative legitimacy of their conduct according to the principles of Islamic jurisprudence, a careful examination of the legal capacities embedded in Islamic jurisprudential sources, together with an assessment of their compatibility with the principles of International Humanitarian Law, is of particular importance. Long before the codification of modern humanitarian law, Islamic jurisprudence, relying upon the Qur’an and the Sunnah of the Prophet (PBUH), had established a comprehensive legal framework for the protection of civilians, especially children as the most vulnerable members of society, including the absolute prohibition of killing children and the obligation to preserve their human dignity.

Against this background, the present study seeks to answer the following research questions:

- What are the principles of International Humanitarian Law governing the protection of children during armed conflicts?
- What are the principles adopted by the Five Schools of Islamic Jurisprudence regarding the protection of children in armed conflicts, and what are their principal similarities and differences?
- What legal mechanisms are available for pursuing justice for the unlawful killing of the children of the Minab School?

It is evident that promoting constructive dialogue based upon mutual understanding, developing a common normative framework, strengthening institutional capacities, and formulating operational guidelines consistent with both Islamic jurisprudence and International Humanitarian Law can significantly enhance the commitment of armed actors within the Islamic world to the protection of children during armed conflicts.

Using a comparative analytical approach, this study examines the authoritative sources of the Five Schools of Islamic Jurisprudence—including the Qur’an, the Sunnah, jurisprudential principles (*qawā’id fiqhiyyah*), the objectives of Islamic law (*maqāsid al-sharī’ah*), and the opinions of prominent Shi’a and Sunni jurists—as well as the relevant international instruments governing International Humanitarian Law and the rights of the child. The study aims to provide a clear comparative understanding of the protection of children within these two normative systems and to propose an operational and context-sensitive framework for strengthening the protection of children in armed conflicts across the Islamic world.

## **2. Clarifying the Concept of International Humanitarian Law: Definition and Scope**

What is now known as International Humanitarian Law (IHL) originally consisted of two distinct branches of law applicable to armed conflicts: the Law of The Hague and the Law of Geneva. Over time, these two branches gradually evolved into an integrated and coherent legal system, the development and consolidation of which was significantly advanced by the adoption of the 1977 Additional Protocols ([Ghorbaninia et al., 2017](#)).

From this perspective, International Humanitarian Law refers to a body of international legal rules that, on the one hand, restrict the rights of parties to an armed conflict in choosing the methods and means of warfare and, on the other hand, protect neutral States, persons, and objects that are affected, directly or indirectly, by the conflict. The primary objective of this legal regime is to alleviate the suffering and hardships caused by war and to safeguard human dignity during armed conflict. In a more contemporary approach, however, the objectives of IHL have expanded to include respect for the inherent dignity of every human being, the protection of the right to life and other fundamental human rights, the incorporation of human rights norms into the legal framework governing armed conflicts, and the prosecution, trial, and punishment of perpetrators of war crimes. In this context, the adoption of the 1977 Additional Protocols, which contain provisions closely aligned with international human rights standards, was intended to promote these objectives ([Ghorbaninia, 2006](#)).

The protective mechanism and operational framework of International Humanitarian Law rest upon three fundamental pillars: protection, respect, and assistance. Its scope of application extends to both international armed conflicts and non-international (internal) armed conflicts. In another definition, this legal system has been described as:

“The body of rules and principles of international law that, while defining the rights relating to the protection of human beings, whether military or civilian, and the rights of belligerent parties in both international and non-international armed conflicts, also determines the obligations of individuals and the parties to the conflict.” ([Ziaee Bigdeli, 2013](#))

### 3. Fundamental Principles of International Humanitarian Law Protecting Children: A Comparative Analysis with Islamic Jurisprudence

The normative frameworks of both Islamic jurisprudence and International Humanitarian Law (IHL) emphasize the inherent dignity of children and the necessity of providing them with special protection during armed conflicts. Both legal systems explicitly prohibit the direct targeting of children as well as their operational use in hostilities. Within this framework, several fundamental principles governing the protection of children during armed conflict merit consideration.

#### 3.1. Principle of Distinction

The Principle of Distinction, which is firmly established in Article 48 of Additional Protocol I to the Geneva Conventions and recognized as a rule of customary international law, requires parties to an armed conflict to distinguish at all times between military objectives and civilians, as well as between civilian objects and military targets. Consequently, attacks may lawfully be directed only against legitimate military objectives.

This principle likewise occupies a prominent position within Islamic jurisprudence. Classical Islamic rules governing jihad consistently emphasize the prohibition of killing women, children, the elderly, and other persons who do not participate in hostilities, while also prohibiting the unnecessary destruction of farms, crops, and civilian property. Accordingly, both legal systems establish a common ethical and legal framework aimed at limiting military violence through the protection of persons who take no direct part in armed conflict.

The distinction between combatants and civilians constitutes a fundamental humanitarian principle recognized by both Islamic law and International Humanitarian Law. Under this principle, participation in warfare is limited to combatants, who alone possess the legal capacity to engage in hostilities. Consequently, civilians must refrain from participating in military operations, since their legal protection depends upon their non-participation in hostilities.

From the perspective of Islamic jurisprudence, the Principle of Distinction has a clear Qur'anic foundation. The Holy Qur'an provides:

“Fight in the way of Allah those who fight you, but do not transgress. Indeed, Allah does not love the transgressors.” (Qur'an 2:190) (Sheikh al-Hind, 2019).

The term *i'tidā'* (transgression) denotes exceeding the limits prescribed by God (al-Ṭūsī, 1988). The Qur'anic injunction, “Do not transgress; indeed Allah does not love the transgressors,” constitutes one of the most comprehensive ethical principles governing armed conflict. It requires respect for the rights of all human beings—including Muslims, believers, non-believers (*kuffār*), hypocrites (*munāfiqūn*), hostile enemies, and neutral parties bound by treaty—in accordance with justice, reason, and the *Sharī'ah*. Even the status of a hostile unbeliever (*kāfir ḥarbī*) does not justify violating the rights of that person's family members, children, or property beyond what is required by lawful self-defence (Moṣṭafavī, 2001).

According to al-Nasafī, one of the leading commentators of the Ḥanafī school, the prohibition against transgression in this verse specifically encompasses the killing of children, women, and the elderly (al-Nasafī, 1998). This interpretation is fully consistent with the Sunnah of the Prophet (PBUH). Whenever dispatching military expeditions, the Prophet instructed his commanders:

“March in the name of Allah, for the sake of Allah, and according to the way of the Messenger of Allah. Do not act excessively, do not betray, do not mutilate, and do not kill children, the elderly, or women.” (al-ʿĀmilī, 1993).

The rule that “war is only against combatants,” derived from both the Qur'an and the Prophetic Sunnah, constitutes one of the mandatory principles governing jihad in Islamic law. Individuals who are not members of the armed forces, whose military status has not been established, or who are incapable of participating in hostilities—including women, children, the elderly, the wounded, prisoners of war, and persons who have surrendered—are entitled to legal protection under Islamic law. Respect for this principle is regarded as a religious obligation (al-Jaṣṣās, 1984; al-Zuhaylī, 1990; Ṭabāṭabā'ī, 1996).

The Qur'an further provides:

“The sacred month is for the sacred month, and violations are subject to legal retribution. Therefore, whoever transgresses against you, respond only to the extent of the transgression committed against you. And fear Allah and know that Allah is with the righteous.” (Qur'an 2:194).

This verse likewise reflects the Principle of Distinction, which may be limited only where justified by military necessity ([al-Zuhaylī, 1990](#)).

Historically, the Principle of Distinction was largely absent from conventional warfare in many parts of the world, including Western legal traditions, until the late Middle Ages. The concept first emerged in the Preamble to the Saint Petersburg Declaration, which declared that the sole legitimate objective of war is to weaken the enemy's armed forces. It was subsequently incorporated into the Hague Regulations of 1899 and 1907, formally codified in the Fourth Geneva Convention (1949) and Article 48 of Additional Protocol I (1977), and ultimately reaffirmed by the International Court of Justice in its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons. The Court emphasized that civilians may never be the object of attack and that States are prohibited from employing weapons incapable of distinguishing between military objectives and civilians.

Within this legal framework, the Geneva Conventions establish extensive safeguards for civilians. Articles 20 and 21 of the Second Geneva Convention, together with the Fourth Geneva Convention—particularly Articles 13–17 and paragraphs 2 and 3 of Article 27—contain detailed provisions concerning civilian protection during armed conflict. Article 1 of the Fourth Geneva Convention further obliges the High Contracting Parties to respect and ensure respect for the Convention in all circumstances. Moreover, Article 76 of Additional Protocol I provides special protection for women during armed conflicts.

Accordingly, both Islamic law and International Humanitarian Law regard indiscriminate attacks as fundamentally incompatible with humanitarian principles and human dignity ([Salimi, 2003](#)).

It may therefore be concluded that the Principle of Distinction constitutes one of the cornerstones of International Humanitarian Law. By requiring military forces to distinguish at all times between combatants and civilians, it seeks to preserve human life and dignity during armed conflict, and its violation may constitute a war crime. Although Islamic jurisprudence articulates this principle within its own doctrinal framework, it ultimately pursues the same normative objective by emphasizing the protection of the lives, property, and honour of civilians—including women, children, the elderly, religious personnel, and the wounded—even in times of war. Consequently, despite differences in legal methodology, both legal systems converge upon the same humanitarian commitment to protecting those who do not participate in hostilities.

### 3.2. *The Principle of Proportionality*

The Principle of Proportionality in International Humanitarian Law (IHL) requires that incidental civilian casualties and damage to civilian objects resulting from an attack on a legitimate military objective must not be excessive in relation to the concrete and direct military advantage anticipated from that attack. As one of the fundamental principles governing armed conflicts, this rule embodies a balanced legal approach to the use of force.

From the perspective of the Islamic legal system, which emphasizes wisdom (*ḥikmah*) and rationality (*ta' aqul*) in all aspects of individual and social life, prudent conduct in both domestic and international relations constitutes a fundamental obligation. The Holy Qur'an calls upon Muslims, in all circumstances—and particularly when inviting others to the path of truth—to adopt wise, persuasive, and appropriate methods. Almighty Allah states:

“Invite to the way of your Lord with wisdom and good instruction, and argue with them in the best manner. Indeed, your Lord knows best who has strayed from His way, and He knows best those who are rightly guided.” (Qur'an 16:125).

This Qur'anic guidance is fully consistent with the ethical and legal foundations of proportionality, moderation, and the avoidance of excess or negligence (*ifrāt* and *tafrīt*), while emphasizing the protection of human life and dignity even during armed conflicts.

Even where preventive measures prove ineffective and Muslims are compelled to respond to enemy aggression through armed force, they remain bound by the Principle of Proportionality—a principle articulated by the Holy Qur'an centuries before its recognition in modern international law, as previously noted in Qur'an 2:194. Another relevant verse provides:

“And if you punish, then punish only with the like of that by which you were harmed. But if you remain patient, it is certainly better for those who are patient.” (Qur'an 16:126).

According to several narrations, this verse relates to the Battle of Uhud. The brutal mutilation of Hamzah, the uncle of the Prophet Muhammad (PBUH), by the enemy, together with the Prophet's remarkable patience and his declaration of general amnesty during the Conquest of Mecca despite possessing overwhelming power, represent outstanding examples of

humanitarian conduct and Islamic restraint in warfare. Those seeking to appreciate the highest and lowest manifestations of conduct during war should compare the brutality displayed at the Battle of Uhud with the humanitarian spirit demonstrated during the peaceful conquest of Mecca (Makarem Shirazi, 2008).

As previously discussed, the Holy Qur'an also explicitly prohibits transgression during warfare (Qur'an 2:190), thereby reinforcing the Principle of Proportionality. Refraining from prohibited acts in war is an essential consequence of this principle, and exceeding its limits without an overriding and legitimate necessity (*maṣlaḥah*) is prohibited (al-Andalusī, 1999; Ṭabāṭabā'ī, 1996).

In addition to its Qur'anic foundation, this principle is firmly rooted in the Prophetic Sunnah (Mughniyyah, 2000). The Prophet Muhammad (PBUH), while encouraging his companions before battle, instructed:

“Go forth in the cause of truth, and do not allow weakness or fear to overcome you.” (Boroujerdi, 2001).

The Principle of Proportionality, which has also become a rule of customary international law, is codified in Article 51 of Additional Protocol I (1977), which provides that an attack must be cancelled or suspended if it may be expected to cause incidental civilian casualties or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated (Salimi, 2003).

It appears that the Principle of Proportionality, viewed through the jurisprudence of the Islamic schools of thought, is founded upon the inherent sanctity of human life and the objective of preserving it. Rooted in the objectives of Islamic law (*Maqāṣid al-Sharī'ah*), this approach adopts a stricter standard than a purely military balancing test, requiring Muslims to refrain from an attack whenever there exists even a slight possibility of disproportionate civilian harm. This emphasis on the sanctity of human life is fully consistent with the humanitarian spirit underlying International Humanitarian Law. Nevertheless, the interpretation of proportionality adopted by the United States military during the attack on the Minab School—based upon preventive military calculations and broad interpretations of “military necessity”—has been repeatedly criticized. From both Islamic jurisprudential and international human rights perspectives, the resulting civilian casualties, particularly the deaths of children, are regarded as manifestly disproportionate. Consequently, this practice illustrates the profound gap between the theoretical obligations imposed by international law and their implementation in contemporary armed conflicts.

### 3.3. *The Principle of Restriction*

Even where preventive measures fail and armed conflict becomes unavoidable, belligerent parties do not enjoy unlimited freedom in the conduct of hostilities. Warfare is necessarily governed by the Principle of Restriction, which prohibits the use of methods and means of warfare, as well as weapons, that cause superfluous injury or unnecessary suffering. Compliance with this principle constitutes an essential requirement of justice.

As early as the seventh century CE, the Holy Qur'an emphasized this principle through its explicit prohibition of transgression in warfare. In the same verse previously cited (Qur'an 2:190), the legitimacy of armed conflict is confined exclusively to the defence of truth and humane objectives.

From the perspective of Islamic law, numerous acts are prohibited during armed conflict, including breach of treaties, treachery, attacks exceeding lawful military objectives, unlawful appropriation of war booty, mutilation of the dead or wounded, torture and execution, destruction of trees, burning palm groves and agricultural lands, deliberate flooding of orchards for purposes of destruction, the use of poison and poisonous weapons, killing livestock, and the destruction of places of worship, cultural institutions, and historical monuments (al-Bayhaqī).

Exceeding the legitimate objectives of jihad by waging war for massacre, destruction, conquest, revenge, or the pursuit of political domination constitutes a clear manifestation of *ifsād fī al-arḍ* (corruption on earth) and disrupts both the natural and divinely ordained legal order (al-Zuhaylī, 1990; Tayyeb, 1999). The Holy Qur'an absolutely prohibits corruption on earth:

“Do not cause corruption on the earth after it has been set right.” (Qur'an 7:56).

Accordingly, Muslims are required, under all circumstances—and especially during armed conflicts—to refrain from conduct that promotes corruption or injustice. The contention that this prohibition applies only to specific situations lacks both textual support and logical justification (al-Ṭabrisī, 1981; Fakhr al-Rāzī, 1999). Given the absolute nature of this prohibition, its observance during armed conflict becomes even more imperative, since the opportunities for corruption are considerably

greater in wartime. Muslim combatants are therefore required to fight solely for legitimate and humanitarian purposes and in defence of the true faith, rather than for personal interests or material gain (Mughniyyah, 2000).

Within International Humanitarian Law, the Principle of Restriction concerning the objective of warfare began to receive formal recognition during the late eighteenth and nineteenth centuries. The 1864 Saint Petersburg Declaration was the first international instrument to recognize that the sole legitimate objective of war is to weaken the military forces of the enemy while simultaneously reconciling military necessity with the principles of humanity. Subsequently, international law increasingly emphasized the protection of persons who do not take a direct part in hostilities. Common Article 3 of the four Geneva Conventions (1949) prohibits orders that no survivors shall be left, while Additional Protocol I (1977, Article 40) and Additional Protocol II (1977, Article 4(1)) reaffirm this prohibition. Later developments also introduced restrictions on siege warfare and expressly prohibited the starvation of civilians as a method of warfare (Salimi, 2003).

#### **4. Documentary Foundations for the Protection of Children in Armed Conflict from the Perspective of Islamic Jurisprudence**

According to the primary sources of Islamic jurisprudence, the protection of non-combatants—particularly children—during armed conflict has been strongly emphasized. The principal jurisprudential foundations are discussed below.

##### *4.1. The Qur'an*

With regard to the Principle of Distinction and the prohibition of transgression, which also constitute fundamental principles of International Humanitarian Law, the Holy Qur'an states:

“Fight in the way of Allah those who fight you, but do not transgress. Indeed, Allah does not love the transgressors.” (Qur'an 2:190).

The expression “those who fight you” (*alladhīna yuqātilūnakum*) explicitly confines the legitimacy of armed combat to those who actively participate in hostilities. Children, who neither possess combat capability nor participate in warfare, are therefore clearly excluded from the scope of lawful military action. Likewise, the command “do not transgress” (*lā ta'tadū*) establishes an absolute prohibition against exceeding the divinely prescribed limits governing warfare.

Makarem Shirazi maintains that even on the battlefield the principles of justice must be observed and all forms of transgression must be avoided (Makarem Shirazi, 2008). As the first Qur'anic verse concerning jihad, this verse establishes the fundamental legal framework governing legitimate warfare, under which only combatants constitute lawful military targets, whereas any attack against non-combatants—including children—is regarded as an act of unlawful transgression prohibited by God.

Similarly, al-Nasafi, one of the leading commentators of the Ḥanafī school, explains that the prohibition against transgression in this verse specifically includes the prohibition of killing children, women, and the elderly (al-Nasafi, 1998). This interpretation demonstrates that, according to the early exegetical tradition, children were regarded as the clearest example of protected non-combatants who enjoy immunity from attack.

##### *4.2. The Sīrah and Sunnah of the Prophet and the Infallible Imams (Peace Be Upon Them)*

Numerous examples from the life of the Prophet Muhammad (PBUH) demonstrate his explicit prohibition of killing women and children during armed conflict. Many Qur'anic commentators likewise consider the killing of women and children to constitute an act of injustice and maintain that the Qur'anic prohibition against transgression in warfare primarily refers to refraining from killing women and children.

Although a minority of jurists maintain that women and children who directly participate in hostilities may lawfully be targeted, the overwhelming majority of Imāmī jurists categorically prohibit the killing of women and children even if they participate in armed conflict (Muḥaqqiq, 2010). Likewise, elderly persons who do not participate in hostilities are also protected from attack.

The established practice of the Prophet Muhammad (PBUH) during military campaigns was founded upon the principles of honesty and humanity. He consistently instructed his commanders:

“Do not betray trusts, and do not kill women or children.” (Ibn, 1994).

Two examples clearly illustrate this Prophetic practice.

When the Prophet (PBUH) was returning from the Battle of Hunayn, he came upon the body of a woman who had been killed. He asked: “Who killed this woman?” When informed that she had been killed by Khālīd ibn al-Walīd, he instructed: “Tell Khālīd that the Messenger of Allah forbids the killing of children, women, and hired labourers among the enemy.” (Abū Dāwūd, 2009). This narration demonstrates that even individuals accompanying enemy forces without directly participating in combat were protected under Islamic law.

In another incident, several children were killed during a military campaign. Upon learning of this, the Prophet (PBUH) became deeply angered and declared: “Why have some people become so aggressive that they resort to killing children?” (al-Shaybānī, 1991). The Prophet’s profound emotional response reflects the exceptional importance attached to the protection of children within the ethical and legal framework of Islam. His anger represented not merely a personal emotional reaction but the affirmation of a binding legal rule whose violation incurs both religious and moral condemnation.

A similar approach is evident in the Battle of Badr. The Prophet (PBUH) had specifically ordered that al-Harith ibn ‘Amr ibn Nawfal should be captured rather than killed because he had been compelled to join the enemy forces. However, he was mistakenly killed before the Prophet’s instruction could be carried out. Upon hearing the news, the Prophet (PBUH) remarked: “Had I reached him before he was killed, I would have released him to return to his family.” Likewise, the Prophet had prohibited the killing of Zam‘ah ibn al-Aswad, yet he too was mistakenly killed by one of the Muslim soldiers who had failed to recognize him (Abū Dāwūd, 2009).

Imam Ali (PBUH) likewise instructed his commanders never to harm women under any circumstances, even if they verbally insulted military leaders (al-Shaykh al-Mufīd, 1993). This Alid practice, recognized in both Shi‘i and Sunni sources, clearly demonstrates that the sanctity of human life and personal dignity must be respected even in situations of extreme hostility. By stronger reason (a fortiori), children—who bear no responsibility for armed conflict—are entitled to the highest degree of legal protection.

From the perspective of contemporary International Humanitarian Law, the Geneva Conventions and their Additional Protocols likewise establish a comprehensive legal framework for the protection of children during armed conflicts (Tal‘at & Ahangar Asil, 2016).

#### 4.3. *Consensus (Ijmā‘) of the Jurists of the Five Major Islamic Schools*

Islamic jurists have consistently recognized a special immunity for women and children during armed conflict. According to the prevailing juristic view, women and children who directly participate in hostilities and provide effective military assistance to enemy forces may, under exceptional circumstances, lose such immunity. Nevertheless, a number of Imāmī jurists have questioned—and explicitly rejected—the permissibility of killing women even when they participate in military operations against Muslims (Sheikh Mohammadi, 2013).

The author of *Jawāhir al-Kalām* states:

“It is not permissible to kill the insane, children, or women among the enemy, even if they provide assistance to the enemy, except in cases of necessity (ḍarūrah). I have found no opposing opinion among the jurists on this matter. Indeed, al-‘Allāmah al-Ḥillī, in al-Muntahā, claimed consensus (ijmā‘) regarding the impermissibility of killing enemy women and children, even if they participate in military engagements.” (Najafī, 1983).

Accordingly, women and children retain their immunity from direct attack even where they merely assist enemy forces without assuming the status of combatants. Only in exceptional circumstances of absolute military necessity, where no alternative exists, have some jurists recognized a limited exception based on the doctrine of necessity (Sheikh Mohammadi, 2013).

The views of the five major Islamic schools of jurisprudence (Imāmiyyah, Ḥanafīyyah, Mālikiyyah, Shāfi‘īyyah, and Ḥanbaliyyah) may be summarized as follows.

#### 4.3.1. A) The Imāmiyyah School

Imāmī jurists unanimously regard the protection of children during armed conflict as one of the established principles of Islamic jurisprudence. According to the dominant juristic opinion (*mashhūr*), the killing of children is categorically prohibited, even where they are present on the battlefield.

The author of *Jawāhir al-Kalām* states:

“It is not permissible to kill the insane, children, or women among the enemy, even if they assist enemy forces, except in cases of necessity.” (Najafī, 1983).

Likewise, al-‘Allāmah al-Ḥillī claims a scholarly consensus (*ijmā‘*) regarding the prohibition of killing women and children, even if they accompany military forces during armed conflict (al-‘Allāmah al-Ḥillī, 1993a).

Similarly, al-Muḥaqqiq al-Ḥillī maintains that killing women and children is impermissible unless they directly engage in hostilities. Even in such circumstances, several Imāmī jurists continue to prohibit their killing (Muḥaqqiq, 2010).

Al-Shaykh al-Mufīd further reports that Imam Ali (PBUH) instructed military commanders to proclaim before every battle that no corpse should be mutilated, no private dwelling entered without permission, no household property seized, and no captives executed. Such instructions reflect a comprehensive humanitarian code governing the conduct of warfare in Islamic jurisprudence (al-Shaykh al-Mufīd, 1993).

#### 4.3.2. B) The Ḥanafī School

Ḥanafī jurists unequivocally prohibit the killing of women and children on the grounds that they are not combatants. According to Ḥanafī jurisprudence, captured children may not be killed under any circumstances (al-Kāsānī al-Ḥanafī, 2003; al-Sarakhsī, 1957).

Al-Sarakhsī further maintains that protecting and treating wounded and sick persons during armed conflict constitutes a legal obligation. In support of this position, he cites the Prophetic practice whereby elderly women accompanied Muslim armies to provide medical care for the wounded and prepare food and water for soldiers (al-Sarakhsī, 1957). If Islamic law affords such protection to the wounded, it follows a fortiori that children, who play no role in hostilities, deserve even greater protection.

#### 4.3.3. C) The Mālikī School

Mālikī jurists likewise prohibit the killing of women and children.

Ibn Rushd explains that women accompanied Muslim military expeditions solely to treat the wounded and the sick, demonstrating that they were regarded as non-combatants rather than lawful military targets (Ibn Rushd, 2024).

Similarly, al-Qurṭubī observes that a person is not considered an enemy merely by identity; rather, hostility must be demonstrated through actual hostile conduct (al-Qurṭubī, 2005). Since children neither possess hostile intent nor engage in hostile acts, they cannot lawfully be regarded as military objectives.

#### 4.3.4. D) The Shāfi‘ī School

Shāfi‘ī jurists likewise affirm the prohibition of killing children during armed conflict, deriving this ruling from both textual evidence and the consensus of the Companions.

Al-Māwardī explicitly affirms this principle (al-Māwardī, 1984).

Imam al-Shāfi‘ī defines an enemy as one who possesses both the intention and the will to inflict harm upon others (al-Shāfi‘ī, 1999). Because children lack such hostile intent, they cannot be classified as lawful targets under Islamic law.

#### 4.3.5. E) The Ḥanbalī School

Ḥanbalī jurists likewise prohibit the killing of children in armed conflict.

Ibn Qudāmah states unequivocally that children may not be killed because the Prophet (PBUH) expressly prohibited the killing of women and children (Ibn Qudāmah, 1984).

Similarly, Ibn Taymiyyah writes:

“Since the objective of lawful jihad is that the religion of Allah should prevail, only those who actively prevent this objective may lawfully be fought. Accordingly, women, children, monks, the elderly, the blind, and others who neither engage in combat nor obstruct the propagation of Islam are not to be killed according to the consensus of Muslim scholars.” (Ibn Taymiyyah, 1995).

This statement clearly places children among those whose immunity from attack is recognized by the consensus of Islamic jurists.

#### 4.4. Jurisprudential Maxims (*al-Qawā'id al-Fiqhiyyah*)

##### 4.4.1. A) The Maxim of No Harm (*Lā Ḍarar wa Lā Ḍirār*)

One of the most fundamental maxims of Islamic jurisprudence is the maxim of *Lā Ḍarar wa Lā Ḍirār* (“There shall be neither harm nor reciprocal harm”), which is derived from an authentic Prophetic tradition. This maxim establishes the general prohibition of causing unjustifiable harm to oneself or others and serves as one of the foundational principles governing Islamic legal reasoning.

Applied to the Minab school attack, this maxim clearly demonstrates the unlawfulness of deliberately targeting a school filled with children. Such an attack served no legitimate military objective and resulted solely in gratuitous harm to innocent civilians. Consequently, it constitutes a manifest violation of the maxim of *Lā Ḍarar*. As one of the comprehensive legal maxims upon which numerous branches of Islamic jurisprudence are founded, this principle establishes that any conduct resulting in unjustifiable harm to innocent persons lacks legal legitimacy under Islamic law.

It may be argued that, during armed conflict, military action is intended to avert a greater danger posed by the enemy. Such an argument, however, is untenable for several reasons:

First, the Minab school did not constitute a legitimate military objective.

Second, even assuming the existence of a hypothetical military objective, the maxim of *Lā Ḍarar* requires that incidental harm to civilians be reduced to the minimum possible extent. It cannot justify the deliberate targeting of civilians through two successive missile strikes employing a “double-tap” strike pattern.

Third, the maxim categorically rejects any harm that lacks a valid Sharī'ah justification. Harm inflicted solely upon innocent civilians without lawful necessity is therefore prohibited.

##### 4.4.2. B) The Maxim: “The Greater Harm Is Removed by the Lesser Harm” (*al-Ḍarar al-Ashadd Yuzāl bi al-Ḍarar al-Akhaff*)

Another well-established maxim of Islamic jurisprudence provides that a greater harm may be prevented by tolerating a lesser harm. This principle applies only where two unavoidable harms conflict and where preventing the greater harm necessarily requires accepting the lesser one.

Neither of these conditions is satisfied in relation to the Minab school attack.

First, no identifiable greater harm existed that could only have been prevented through the killing of 168 schoolchildren.

Second, the intentional killing of children can never be regarded as the lesser harm. On the contrary, it constitutes one of the gravest forms of harm recognized by both Islamic jurisprudence and international humanitarian law.

Accordingly, this maxim provides no legal or moral justification for the attack.

##### 4.4.3. C) The Maxim of Non-Combatant Immunity (*Lā Yuqṭalu Ghayr al-Muqātil*)

Islamic jurists have derived from the Qur'an and the Prophetic Sunnah a general legal maxim providing that only combatants may lawfully be targeted during armed conflict. The immunity of non-combatants—including children—constitutes one of the fundamental principles governing the conduct of hostilities in Islamic jurisprudence.

**(i) Qur'anic Foundations**

The Holy Qur'an states:

"Whoever kills a soul—unless for a soul or for corruption upon the earth—it is as though he has killed all mankind." (Qur'an 5:32).

This verse elevates the sanctity of innocent human life to its highest possible level by equating the unlawful killing of a single innocent person with the killing of all humanity. Al-Qurṭubī explains that this ruling extends to all human beings, including children and other civilians ([al-Qurṭubī, 2005](#)).

The Qur'an further declares:

"Indeed, We have honored the children of Adam..." (Qur'an 17:70).

This verse affirms the inherent dignity of every human being, a dignity that must remain protected even during armed conflict. Ibn 'Āshūr explains that the expression "Children of Adam" encompasses all members of the human family without distinction ([Ibn 'Āshūr, 1999](#)).

Accordingly, Islamic jurisprudence identifies non-combatant status—not religion, nationality, or ethnicity—as the decisive criterion for civilian protection. Children therefore enjoy continuous and unconditional protection as non-combatants.

**(ii) Prophetic Sunnah**

The Prophetic tradition provides explicit and unequivocal protection for children during armed conflict.

The Prophet (PBUH) stated:

"Do not kill children, women, or the elderly." ([Abū Dāwūd, 2009](#); [Muslim, 1990](#)).

The Arabic term *walīd* encompasses both young children and minors of either sex ([Ibn Manẓūr, 1993](#)).

From a jurisprudential perspective, this prohibition is absolute. The Prophet introduced no qualification or exception concerning children. Consequently, the rule applies regardless of the presence of children in areas affected by military operations, except under the most exceptional circumstances recognized by Islamic jurisprudence.

Similarly, when dispatching military expeditions, the Prophet consistently instructed his commanders:

"March in the name of Allah and in His cause. Do not commit excess, do not betray, do not mutilate bodies, and do not kill children." ([al-Shaybānī, 1991](#)).

Significantly, the prohibition against killing children appears alongside prohibitions against treachery and mutilation—acts universally recognized in Islamic jurisprudence as grave violations of the law of armed conflict. This textual association demonstrates the exceptional gravity attached to the protection of children under Islamic law.

The Prophet also instructed Muslim forces not to destroy trees, harm animals, attack women, children, or the elderly, interfere with those not participating in hostilities, or kill wounded enemy soldiers. Such directives reflect a comprehensive humanitarian code governing the conduct of warfare. If Islamic law prohibits even the unnecessary destruction of animals and vegetation, it follows a fortiori that indiscriminate attacks causing mass civilian casualties are fundamentally incompatible with its humanitarian principles (['Azīmī, 2007](#)).

Islamic legal sources further indicate that the Prophet consistently instructed Muslim forces never to initiate hostilities and to resort to armed force only in response to aggression. Al-Sarakhsī expressly records this principle, emphasizing that warfare is permissible solely as a defensive measure ([al-Sarakhsī, 1957](#)).

Accordingly, compliance with the rules governing armed conflict constitutes not merely a legal obligation but also a religious duty under Islamic law. Violations entail both worldly and spiritual accountability. Indeed, many scholars maintain that Islamic humanitarian principles, formulated more than fourteen centuries ago, provide standards of civilian protection that in several respects exceed those embodied in contemporary international humanitarian law ([Faqih Habibi, 2016](#)).

More broadly, Islamic humanitarian law applies equally to both international and non-international armed conflicts. It clearly distinguishes combatants from non-combatants, grants immunity to civilians, and confines the lawful use of force to those directly participating in hostilities. These principles constitute fundamental and universally applicable rules within Islamic jurisprudence.

#### 4.5. *The Objectives of Islamic Law (Maqāṣid al-Sharī'ah)*

The Maqāṣid al-Sharī'ah (Objectives of Islamic Law) provide the overarching framework for understanding the philosophy and purposes of Islamic legal rulings. Classical Muslim jurists identify five essential objectives (al-Ḍarūriyyāt al-Khams): the preservation of religion (ḥifẓ al-dīn), life (ḥifẓ al-naḥs), intellect (ḥifẓ al-'aql), lineage (ḥifẓ al-nasl), and property (ḥifẓ al-māl). These objectives serve as the primary standards against which the legality and legitimacy of individual and collective actions are assessed.

Among these objectives, the preservation of human life occupies a central position. Muslim jurists have consistently regarded the protection of innocent life as one of the highest and most indispensable purposes of the Sharī'ah. Consequently, the killing of 168 schoolchildren constitutes a manifest violation of one of the fundamental objectives of Islamic law. Any act that deliberately or foreseeably endangers innocent human life is therefore incompatible with both the letter and the spirit of the Sharī'ah.

The attack also directly undermines the objective of preserving lineage (ḥifẓ al-nasl). Children represent the future generation of every society, and their protection is indispensable for the continuity and well-being of the human community. The deliberate killing of children therefore constitutes not merely an attack upon individual victims but also an assault on one of the essential interests that Islamic law seeks to preserve.

Furthermore, the objective of preserving intellect (ḥifẓ al-'aql) is likewise implicated. Schools are institutions dedicated to education, intellectual development, and the cultivation of future generations. Deliberately targeting educational institutions deprives children of learning opportunities, disrupts the educational process, and inflicts long-term harm upon the intellectual development of society. Such conduct is fundamentally inconsistent with one of the principal objectives of the Sharī'ah.

Accordingly, from the perspective of Maqāṣid al-Sharī'ah, the deliberate attack on a school and the killing of children cannot be justified under any recognized principle of Islamic jurisprudence. Rather, such conduct simultaneously violates the objectives of preserving life, lineage, and intellect, thereby representing one of the clearest examples of conduct contrary to the higher purposes of Islamic law.

### 5. **Commonalities and Differences among Islamic Schools of Jurisprudence Regarding the Protection of Children during Armed Conflict**

A comparative examination of the foregoing views of Islamic jurists concerning the protection of non-combatants, particularly children, during armed conflict reveals both significant commonalities and certain jurisprudential differences. These points of convergence and divergence are discussed below.

#### 5.1. *Common Jurisprudential Principles among Islamic Schools Regarding the Protection of Children during Armed Conflict*

The various schools of Islamic jurisprudence share a broad consensus on the fundamental principles governing humanitarian protection and human dignity. These principles are firmly rooted in the Qur'an and the Sunnah of the Prophet Muhammad (PBUH) and encompass the preservation of life, property, honor, intellect, and lineage (the Five Essential Objectives [al-Ḍarūriyyāt al-Khams] of Maqāṣid al-Sharī'ah) for all human beings irrespective of religion or ethnicity.

Islamic jurisprudence emphasizes the moral and legal obligation to protect the oppressed, uphold justice, treat prisoners of war humanely, prohibit mutilation, safeguard civilians, and respect places of worship during armed conflict. These principles establish a comprehensive ethical and legal framework governing both domestic and international relations. Far from being merely subsidiary juristic rulings, they constitute foundational principles consistently recognized in both Sunni and Shi'i jurisprudential traditions.

The Qur'anic verse:

"Fight those who fight you..." (Qur'an 2:190)

together with the verse:

"Kill the polytheists wherever you find them..." (Qur'an 9:5),

forms the primary textual basis governing armed conflict. Nevertheless, classical commentators from all major Islamic schools unanimously maintain that these verses do not authorize unrestricted warfare. Rather, the permission to fight is subject to strict legal limitations, including:

- restricting hostilities exclusively to combatants;
- adherence to the ethical limits established by Islamic law;
- compliance with the operational restrictions derived from the Prophetic Sunnah, including the prohibition of killing women, children, monks, and other non-combatants.

Accordingly, while the Qur'an establishes the legal basis for warfare, the Sunnah defines its humanitarian limitations and ethical restraints.

The strongest and most widely accepted authority supporting this principle is the consistent practice of the Prophet Muhammad (PBUH) during military campaigns. The following Prophetic tradition is narrated in both Shi'i sources and the most authoritative Sunni collections, including Ṣaḥīḥ al-Bukhārī and Ṣaḥīḥ Muslim:

“Do not kill women, children, elderly persons, or monks.”

The authenticity and universal acceptance of this tradition among both Sunni and Shi'i jurists establish an almost unanimous legal consensus regarding the immunity of non-combatants.

Within Imāmī jurisprudence, this rule is regarded not merely as an accepted Prophetic tradition but as a continuous practice transmitted from the Infallible Imams (al-Sīrah al-Muttaṣilah bi al-Ma'sūm). From early jurists such as Shaykh al-Ṭūsī in *al-Mabsūṭ* to later authorities including al-'Allāmah al-Ḥillī in *Taḥrīr al-Aḥkām*, the prohibition against killing civilians has consistently been regarded as one of the definitive rules governing both offensive and defensive jihad. This principle is therefore not simply an ethical recommendation but a fundamental condition for the legitimacy of warfare itself.

Prominent Sunni jurists likewise affirmed this rule on the basis of the Prophetic Sunnah and the general principles governing lawful warfare.

Within the Ḥanbalī school, Ibn Qudāmah, in *al-Mughnī*, explicitly regarded the prohibition against killing non-combatants as an essential component of lawful military conduct (Ibn Qudāmah, 1984).

Similarly, within the Shāfi'ī school, al-Māwardī incorporated the distinction between combatants and non-combatants into the general framework of the Islamic law of armed conflict and emphasized the protection of civilian lives (al-Māwardī, 1984).

A comparative analysis of the jurisprudential sources therefore demonstrates that the prohibition against intentionally killing non-combatants constitutes a universal principle shared by all major Islamic schools of jurisprudence. Rooted in both the Qur'an and the Sunnah, this principle affirms the sanctity of human life as one of the primary objectives of Islamic law and closely corresponds to the contemporary Principle of Distinction under International Humanitarian Law. Consequently, it represents one of the strongest areas of convergence between Islamic jurisprudence and modern international humanitarian law.

## 5.2. Jurisprudential Differences among Islamic Schools Regarding the Protection of Children during Armed Conflict

Although Islamic schools of jurisprudence unanimously recognize the immunity of children during armed conflict, they differ regarding the legal definition of a combatant (*muqātil*), which constitutes the principal criterion for determining lawful military targets.

In Islamic jurisprudence, individuals who lawfully participate in hostilities are generally referred to as *muqātil*. Although neither the Qur'an nor the Prophetic traditions provide an explicit technical definition of this term, its meaning may be derived from the works of Arabic lexicographers, Qur'anic commentators—particularly in their interpretation of Qur'an 2:190—and classical jurists in the chapters devoted to *jihād*.

Some Arabic lexicographers define *muqāṭalah* (with a *fathah* on the letter *tā'*) as armed combat (*qitāl*) or warfare (*muḥārabah*) (al-Rāghib al-Iṣfahānī, 1995; Ibn Manẓūr, 1993). Others define *muqātil* as those who actively engage in combat (*alladhīna ya'khudhūna fī al-qitāl*) (al-Fayyūmī, 1993).

Likewise, several Imāmī exegetes, while commenting on Qur'an 2:190, define combat as:

“Combat consists of a person's attempt to kill one who seeks to kill him.”

Other commentators similarly describe *muqātalah* as armed confrontation undertaken with the intention of killing one's opponent (Abū al-Futūḥ al-Rāzī, 1987).

Taken together, these linguistic and juristic analyses indicate that a *muqātil* is an individual who possesses both the capacity and the intention to participate in hostilities. Accordingly, persons who either lack the ability to fight—such as children, women, and the elderly—or who possess such ability but neither participate in nor intend to participate in hostilities—such as monks and religious devotees—are not regarded as combatants.

Several observations further clarify this definition.

First, combat (*muqātalah*) is inherently reciprocal in nature and presupposes the participation of opposing parties. Consequently, where no armed confrontation exists, the legal concept of combat cannot arise.

Second, the capability to engage in hostilities is not limited to physical strength. Classical jurists also considered intellectual and strategic participation in warfare. Thus, individuals who contribute military planning, operational strategy, or battlefield intelligence may, despite lacking physical fighting ability, acquire combatant status. Al-ʿAllāmah al-Ḥillī therefore maintained that elderly persons who actively contribute to military operations through strategic planning may be treated as combatants even if they are physically incapable of fighting (al-ʿAllāmah al-Ḥillī, 1993b). Accordingly, both direct participants and those who substantially assist military operations may qualify as combatants, whereas individuals who neither directly participate nor materially assist military activities remain non-combatants.

Third, some scholars argue that mere capacity to fight is sufficient to establish combatant status, irrespective of actual participation (Muḥaqqiq Dāmād, 2004). The prevailing view, however, rejects this interpretation. According to the dominant opinion, neither physical capability nor mere presence on the battlefield is sufficient. Rather, combatant status requires an actual intention to participate in hostilities. This position is supported by classical discussions concerning the distribution of *ghanimah* (spoils of war), where jurists consistently held that only those who either fought or were present with the intention of fighting were entitled to a combatant's share (al-ʿĀmilī, 1993).

Consequently, individuals present in a conflict zone solely for non-combat functions retain their civilian status. Shahīd al-Thānī specifically includes veterinarians, farriers, merchants, animal handlers, stable keepers, and guards among non-combatants, emphasizing that they are not entitled to the privileges accorded to combatants. A fortiori, individuals who are entirely absent from the battlefield cannot be regarded as combatants merely because they possess the physical capacity to fight (al-ʿĀmilī, 1993).

The broader interpretation equating physical capability with combatant status may be explained by two considerations. First, it reflects the opinion of certain jurists, including al-Sarakhsī, who defined a combatant as “one possessing the physical ability to fight” (*al-muqātil man lahu bunyah li al-qitāl*) (al-Sarakhsī, 1957). Second, in early Islamic warfare, military service was generally regarded as the collective responsibility of all able-bodied men, whereas women, children, and persons with disabilities were ordinarily exempt. Consequently, virtually all adult males were presumed to be combatants under the prevailing military organization of the time.

Modern armed conflicts, however, differ substantially. Combatant status today depends primarily upon actual participation in military operations, national military organization, and applicable defense policies rather than age or gender alone. For example, where a state declares general mobilization and deploys all eligible citizens, those mobilized acquire combatant status. Conversely, where only professional armed forces participate in hostilities, civilians—including able-bodied adult males—remain non-combatants.

Similarly, in many contemporary armed forces, women serve as members of the military and may occupy operational as well as senior command positions. In such circumstances, they unquestionably qualify as combatants under both Islamic jurisprudence and contemporary International Humanitarian Law.

Accordingly, the determining criterion for combatant status in Islamic jurisprudence is actual participation, or a genuine intention to participate, in hostilities, rather than age, gender, or physical capability alone. Therefore, persons who do not directly engage in military operations, or who play no active role in the conduct of hostilities or the use of weapons, retain their status as civilians and enjoy the legal protection afforded to non-combatants regardless of whether they are men or women (al-Zuhaylī, 1990).

## 6. Legal Analysis of the Minab School Attack as a War Crime

Under International Humanitarian Law (IHL), schools are regarded as civilian objects, and the intentional targeting of such objects constitutes a clear violation of Articles 48 and 52 of the 1977 Additional Protocol I, reflecting a breach of the Principle of Distinction (Ziaee Bigdeli, 2013).

Shajareh Tayyebbeh School was a civilian educational institution and did not constitute a legitimate military objective. United Nations Special Rapporteurs have emphasized that:

“Schools are considered civilian objects, and children are explicitly protected under international humanitarian law.” (Tal’at & Ahangar Asil, 2016).

Similarly, the International Commission of Jurists stated:

“Direct attacks against civilian objects are strictly prohibited.” (Ziaee Bigdeli, 2013).

Following the incident, Iran’s Ambassador to the United Nations declared before the Security Council:

“These were children exercising their fundamental right to education in a place that was supposed to be safe. They were civilians protected under international humanitarian law.” (Tal’at & Ahangar Asil, 2016).

Even if the school were hypothetically regarded as a military objective—which it clearly was not—the incidental harm resulting from the attack, namely the killing of 168 civilians, the majority of whom were children between seven and twelve years of age, was manifestly excessive in relation to any conceivable military advantage. Accordingly, the attack constituted a grave violation of the Principle of Proportionality. This conclusion is further reinforced by the fact that the strike followed a “double-tap” pattern: after the first missile struck the school, a second missile hit the same location while survivors and rescue personnel had gathered at the scene. Such a pattern strongly indicates an intention to maximize civilian casualties and therefore constitutes a clear violation of both the Principle of Proportionality and the Principle of Precautions in Attack.

The Principle of Proportionality is reflected in Article 51 of the 1977 Additional Protocol I, which provides that:

“An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, shall be prohibited.” (Ziaee Bigdeli, 2013).

Furthermore, Article 24 of the Fourth Geneva Convention, Article 77 of Additional Protocol I, and Article 4 of Additional Protocol II all emphasize the special protection afforded to children during armed conflict.

In this regard, the United Nations High Commissioner for Human Rights also stated:

“The bombing of Shajareh Tayyebbeh Elementary School in Minab provoked profound horror. The images of bombed classrooms and grieving parents made abundantly clear who pays the highest price for war: civilians who had no power over the decisions that led to the conflict.” (Tal’at & Ahangar Asil, 2016).

Under Article 8 of the Rome Statute, intentionally directing attacks against educational institutions that are not military objectives constitutes a war crime (“Rome Statute of the International Criminal Court,” 1998).

As discussed previously, children are recognized under international legal instruments and Islamic jurisprudence as the most vulnerable group and as non-combatants during armed conflicts. An attack on a school filled with students between seven and twelve years of age therefore constitutes a paradigmatic example of an attack against children and a flagrant violation of the applicable protective norms. From the perspective of Islamic jurisprudence, the attack likewise constitutes a direct violation of the principle of *Lā Yuqtalu Ghayr al-Muqātil* (“Non-combatants shall not be killed”) and of Qur’an 2:190, which confines lawful combat to combatants. Accordingly, from the perspectives of both Islamic jurisprudence and International Humanitarian Law, the attack constitutes a war crime.

The possible avenues for judicial accountability and legal redress are outlined below.

As the State whose sovereignty was violated and whose nationals became victims of the attack, Iran may initiate criminal proceedings against those responsible before its domestic courts. Under Iranian law, offences against the internal and external security of the State are subject to prosecution before the competent criminal courts. At the same time, victims or their surviving family members may seek legal remedies before United States federal courts pursuant to applicable legislation governing claims against foreign states or war crimes, although significant procedural and jurisdictional obstacles remain.

On 24 May 2026, Iran submitted a request to refer two cases concerning the Minab school attack to the International Criminal Court (ICC). Since the United States is not a State Party to the Rome Statute, the prosecution of U.S. nationals before the ICC faces significant jurisdictional barriers. Nevertheless, should the United Nations Security Council refer the situation to the Court, the ICC would acquire jurisdiction over the matter. Accordingly, the Security Council represents an important avenue for pursuing international accountability. The Council may adopt a resolution condemning the attack and calling for those responsible to be held accountable.

Iran may also institute proceedings against the United States before the International Court of Justice (ICJ) on the basis of the Geneva Conventions, to which both States are Parties, by invoking responsibility for grave breaches of those Conventions (Ziaee Bigdeli, 2013).

Moreover, under the principle of universal jurisdiction, several States—including Belgium, Spain, and Germany—have enacted legislation empowering their domestic courts to prosecute perpetrators of war crimes irrespective of the place where the offence was committed or the nationality of the perpetrator or the victim.

Finally, various non-judicial international mechanisms may establish independent fact-finding or investigative bodies to collect evidence relating to the attack and submit their findings to the United Nations General Assembly and the Security Council. It is noteworthy that, on 27 March 2026, the United Nations Human Rights Council convened a special emergency session to examine the attack.

## 7. Conclusion

This study demonstrates that both Islamic jurisprudence and International Humanitarian Law (IHL) provide a comprehensive legal framework for the protection of non-combatants, particularly children, during armed conflicts. The principal findings may be summarized as follows:

- Jurisprudential sources, including the Qur'an, the Sunnah, the consensus (ijmā') of the jurists of the Five Islamic Schools, jurisprudential principles (qawā'id fihiyyah), and the Maqāsid al-Sharī'ah (Objectives of Islamic Law), consistently emphasize the protection of non-combatants, especially children, thereby establishing normative principles that are broadly consistent with the fundamental rules of International Humanitarian Law.
- The Five Islamic Schools of jurisprudence share a broad consensus regarding the fundamental principles governing armed conflict, including the prohibition of intentionally killing non-combatants, particularly children, and the observance of the Principle of Distinction. Although jurists differ in defining the concept of *muqātil* (combatant), they unanimously exclude children from this category because they neither participate in hostilities nor perform an active combat role.
- From the perspective of International Humanitarian Law, the attack on the Minab school constituted a clear violation of both the Principle of Distinction (Article 48 of Additional Protocol I) and the Principle of Proportionality (Article 51 of Additional Protocol I). Furthermore, it represented a grave breach of the special protection afforded to children under Article 24 of the Fourth Geneva Convention, Article 77 of Additional Protocol I, and Article 4 of Additional Protocol II.
- Pursuant to Article 8 of the Rome Statute, and in light of the statements issued by the United Nations Special Rapporteurs, the International Commission of Jurists, Human Rights Watch, and the United Nations High Commissioner for Human Rights, the attack is capable of constituting a war crime under contemporary international criminal law and may therefore give rise to individual criminal responsibility.
- The employment of a double-tap strike, which significantly increased civilian casualties by targeting the same location after survivors and rescue personnel had gathered, provides compelling evidence of deliberate conduct and further reinforces the conclusion that the attack violated the Principle of Proportionality and the Principle of Precautions in Attack. Consequently, from the perspectives of both Islamic jurisprudence and International Humanitarian Law, the attack satisfies the legal elements of a war crime and gives rise to the responsibility of those who planned, ordered, or executed it.

## Ethical Considerations

All procedures performed in this study were under the ethical standards.

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