

# Prevention of WMD from the Islamic Point of View

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## Abstract

From a sociological point of view the majority of instances of violence and social disorders have their roots in war. Islamic teachings, serving as the key to happiness and salvation, are essentially based on peace and peaceful coexistence and fighting wars is only warranted in quite particular and exceptional instances. Mention has been made of twenty such instances, one of which is prevention of WMD. In this study an attempt has been made to substantiate such prevention – in addition to Muslim scholars' consensus, Imāmī jurists' and those of the four Sunni schools of Shāfi'ī, Ḥanafī, Mālikī, and Ḥanbalī, as well as other Sunni schools, e.g. the Zāhirī School – by verses of the Holy Qur'an and traditions from the Sunnah of the Prophet of Islam.

**Keywords:** Weapons of Mass Destruction (WMD); religions and denominations; Verses of the Holy Qur'an; hadiths (traditions); consensus (*ijmā'*).

Acts of violence committed at the time of war are mainly brought about by the weaponry that is not only incompatible with human dignity and principles of justice but they are also condemned by governments even when it is not supported by real conviction. As reflected in Islamic teachings it is absolutely unwarranted to make use of unconventional weaponry, e.g. nuclear, biological, and chemical weapons.

Roots of violent behaviors and armed animosities between nations and states may be investigated from different angles. War, at a glance, is the root of all happenings and the main factor leading to colossal developments. Such point of view is based on inevitability of triggering war in adverse conditions of inequality and injustice. From another perspective, war is introduced as a human instinct, since mankind resorts to war aiming at achieving something that is lacking; as a consequence, war has moral roots.

The origin of war is traced also in psychological analyses, and war and violence have been attributed to a kind of seeking supremacy and a test of strength by sick souls.

There are still others who consider war to be the agentive cause of politics. Power, the pivot of government and politics, manifests itself in wars aiming at achieving their goals through exercising authority. Imbalance of powers leads to war but balance of powers serves as an impediment to war.

Roots of war, from the Islamic perspective, may fall into the following categories:

- A. Differences and contradictions in theoretical perspectives and functions;
- B. Injustice and transgression in making use of bounties of life;
- C. Equilibrium and opening the path to growth and perfection;

#### D. Defending rights and dignity.

Acts of violence mainly erupt in wars where the weaponry incompatible with human dignity and principles of justice and indicative of bestiality and vices is used. Utilizing any form of unconventional weapons, e.g. nuclear, biological, and chemical, is prohibited from the perspective of Islamic teachings and such prohibition is attested in a variety of sources.

The present study aims at investigating the jurisprudential and fundamental principles of such prohibition as attested in the verses of the Holy Qur'an and supported by hadiths, human reason, consensus of Muslim scholars, and the *fatwas* issued by Shi'a and Sunni jurists. It is to be noted at the outset of our discussion that there exist numerous issues relevant to prohibition of utilizing unconventional arms, e.g. permissibility and impermissibility of production, possession, and sale of WMD, but they fall beyond the margins of the present study. The topics to be discussed here will be highlighted below:

- A. Requirement of the first principle;
- B. Explication of some war-related precautionary principles;
- C. Prohibition of poisoning regions inhabited by enemy;
- D. Prohibition of using incendiary weapons;
- E. Principle of Prohibition of assassination;
- F. Principle of Prohibition of aggression.

#### **A. Requirement of the First Principle**

Failing to make a judicial decision and produce a juridical rule, a jurist may make use of the principle of 'requirement of the first principle' (*muqtaḍā-yi aṣl-i ūlā*) and it will be indubitably of great use to us in

this discussion. The requirement would be the impermissibility and prohibition of utilizing any form of weaponry in causing harm to people and animals, taking their lives, and bringing about environmental destruction. It is to be noted that such principle excludes instances of permissibility, e.g. defending lives and dignity of Muslims within the means of possibility.

Granted that there is no textual evidence, e.g. the Qur'an and Sunnah, substantiating prevention of utilizing biological and other unconventional weapons and calling to question such permissibility or impermissibility, the 'first principle' would require prohibition of utilizing such weapons.

There exists plenty of evidence substantiating the principle, e.g. unconditional applicability (*iṭlāq*) of all the verses indicative of impermissibility, for instance:

*... Whoever kills a soul, without [its being guilty of] manslaughter or corruption on the earth, is as though he had killed all mankind (5:32).<sup>1</sup>*

Unqualified expression (*iṭlāq*) and general applicability ('*umūm*):

*And if he were to wield authority, he would try to cause corruption in the land, and to ruin the crop and the stock, and Allah does not like corruption (2:205).*

There are generally applicable ('*āmm*) and unqualified (*muṭlaq*) hadith narrated from the Prophet of Islam, Imam 'Alī, and other Imams as to prevention of taking the lives of civilians, destruction of houses and farms, and killing animals by Muslim warriors.

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1. The English translation of the verses in this article is taken from Qara'i, A. Q. (2004), *The Qur'an with a Phrase-by-Phrase English Translation*, ICAS, 2<sup>nd</sup> ed., London.

General applicability and unqualified expression:

*So if they keep out of your way and do not fight you, and offer you peace, then Allah does not allow you any course [of action] against them (4:90).*

General applicability and unqualified expression:

*... And you shall not kill a soul [whose life] Allah has made inviolable, except with due cause. This is what He has enjoined upon you so that you may apply reason (6:151).*

General applicability and unqualified expression:

*So should anyone aggress against you, assail him in the manner he assailed you, and be wary of Allah, and know that Allah is with the God wary (2:194).*

Unqualified expression by the Commander of the Faithful, Imam ‘Alī:

*... Be affectionate and compassionate to subjects and do not be unto them like a ferocious animal to take pleasure in devouring them since subjects fall into two groups: your brethren in faith, or men like you in creation... (Sayyid al-Raḍī, 1994: 53).*

There exist numerous instances of unqualified and generally applicable Qur’anic verses and hadiths as to respecting the lives and properties of human beings and even the vegetative soul in the worlds of animals and plants.

It may be concluded from investigating such generally applicable and unqualified instances attested in numerous verses of the Qur’an and hadiths that the first principle lies in impermissibility of aggression, harming, persecution, and taking the lives of others, even non-Muslims. There are particular and conditional instances excluded from such general application and unqualified instances. When such particular and qualified

instances be uncertain, for instances when we doubt the permissibility of utilizing weapons of mass destruction in war we will apply the first principle in considering unqualified and generally applicable instances.

## **B. Precautionary Principles**

It would be of use, prior to discussing in detail the fundamental principles of impermissibility and prevention of utilizing unconventional weapons, to explicate some Islamic principles applicable to fighting wars as attested in Islamic sources, e.g. the Holy Qur'an, hadith, and biographical accounts of the Prophet and the Imams with respect to making use of weapons, including unconventional ones.

Each of the principles in question, whose authenticity is acknowledged by jurists, is based on the Holy Qur'an and hadith. In an article published elsewhere,<sup>1</sup> the present author discussed those principles and substantiated each of them by making references to the verses of the Qur'an and hadiths attested in Shia and Sunni sources. It is for the sake of brevity that those verses and hadiths are not included here. Some of those principles will be mentioned below:

1. Prohibition of fighting wars aiming at taking vengeance and bloodshed;
2. Prohibition of commencing a war and instead clarifying the truth and calling the other party to accept it;
3. Prohibition of mutilating those fallen in battle;
4. Prohibition of violating truces and peace treaties;

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1. Naqsh-i Uşul wa Qawā'id-i Islāmī dar Tawsi'ah-yi Huqūq-i Bashardüstānah (The Role of Islamic Principles and Laws in Development of Humanitarian Laws), in *Majmū'ah-yi Maqālāt-i Hamāyish-i Islām wa Huqūq-i bayn-millalī-yi Bashardüstānah* (Collection of Articles Presented at the Conference on Islam and International Humanitarian Laws), held in Qom in winter 2004.

5. Prohibition of uprooting and burning trees and destroying agricultural lands;
6. Prohibition of captivation prior to clarification of the truth and calling opponents to accept it;
7. Prohibition of taking the lives of enemy soldiers when they can be captivated;
8. Prohibition of killing or hamstringing animals;
9. Prohibition of fighting those who have converted to Islam;
10. Prohibition of fighting wars with the people of the Book when they are prepared to conclude the protection contract with the Islamic state;
11. Prohibition of fighting a war when the enemy is prepared to discuss a truce or a peace treaty;
12. Prohibition of destroying buildings and laying waste to fertile lands and regions;
13. Prohibition of depriving enemy from having access to water;
14. Prohibition of killing deserting enemy soldiers;
15. Prohibition of taking the lives of civilians, e.g. children, women, elderly people, monks, nurses, the wounded, the sick, and messengers.
16. Prohibition of taking the lives of the soldiers who have been forced to take part in war;
17. Prohibition of taking the lives of mercenaries;
18. Prohibition of using child soldiers;
19. Prohibition of fighting blind and non-purposive wars;
20. Prohibition of using the disabled in war.

Each of the above principles, derived from the verses of the Holy Qur'an and the accounts of the Prophet of Islam and the Infallible Imams with respect to rules of war and dealings with non-Muslims (*sīrah*), may contribute to clarification of the juridical foundations of prohibition of utilizing unconventional, e.g. nuclear and biological, weaponry.

### **C. Prohibition of Poisoning Regions Inhabited by the Enemy**

Present-day unconventional weapons were not to be found at the time of the Messenger of God and the Infallible Imams, but their stance could be inferred from similar weaponry on a smaller scale, e.g. poisoning regions, setting trees, houses, and agricultural lands on fire, and depriving the enemy from having access to water. The Prophet of Islam and the Imams repudiated such unwarranted measures and since poisoning inhabited areas bears further similarity to utilizing unconventional weapons we will concentrate our discussion on that measure.

#### **Hadith**

The Messenger of God is narrated as taking a stance against poisoning the areas inhabited by the enemy: "The Messenger of God prohibited poisoning the areas inhabited by polytheists" (al-Ṭūsī, 1986: 143).

#### **Brief Discussion on Transmission Chain (*Sanad*)**

Interruption in the transmission chain of the hadith in question has raised discussions on its authenticity; however, almost all hadith authorities have acknowledged reliability of the hadiths transmitted by Ismā'īl ibn Abī Ziyād al-Sukūnī. For instance, Ayatollah Khu'ī, a prominent expert in hadith transmission authorities (reputed for his strictness and orientation to details with respect to transmitters' reliability) acknowledged al-Sukūnī's reliability and, similar to numerous jurists in olden and modern-



day times, issued a fatwa relying on a hadith transmitted by him (the present author, vol. 2, p. 371). Accordingly, further discussion on the reliability of the hadith in question would not be required.

### **Brief Discussion on Contextual Indication (*Dalālah*)**

In the hadith in question, prohibition refers to poisoning, but such prohibition may be generally applied to any form of WMD, since there exists no difference between poisoning water, air, or land by utilizing other unconventional weapons and using them would even be more horrible. Accordingly, the term poison (*samm*) attested in this Prophetic hadith is indubitably applicable to any weapon used in taking the lives of innocent people beyond war zones and causing destruction to people, animals, agricultural lands, and environment.

Mention may be made of further arguments to substantiate the statement:

First, it constitutes an indubitable priority in that when utilizing poison that lays waste to a limited area requires prohibition, making use of nuclear bombs and chemical weapons will be *a fortiori* unlawful.

Second, the words water, land, and air are not mentioned in the hadith but mention has been unconditionally made of prohibition of poisoning the lands of polytheists (enemies). Therefore, the equipment used in poisoning the land, air, and water is also intended.

Third, those laws are not ‘divine proximity-oriented’ (*ta‘abbudī*) to be exclusively applicable to poisoning, but they are result-oriented (*tawaṣṣulī*) in that they are applicable to weapons of mass destruction that are more destructive than poison.

Fourth, mention will be made below of the verses of the Holy

Qur'an – e.g. that dealing with aggression (*i'tidā'*) – and the hadiths prohibiting spreading war to civilian zones. There would be no difference in poisoning such areas or utilizing nuclear and other unconventional weapons.

## Conclusion

Attestations of a similar nature are indicative of prohibition of poisoning war zones and poisoning may be generally made applicable to any weapon of mass destruction.

## Juridical Perspective

It is based on the hadith in question and those of a similar nature narrated from the Imams that many jurists have declared that poisoning in martial and non-martial zones is unlawful. Mention will be made below of a number of similar instances:

1. In *al-Nihāyah* Shaykh al-Ṭūsī writes: “It is indubitably unwarranted to poison the areas inhabited by disbelievers” (al-Ṭūsī, 1979: 51). He makes a reference to the hadith in question to substantiate his fatwa. Many later jurists issued similar fatwas, e.g. Ibn Idrīs (*Sarā'ir*, vol. 2, p. 7), Ibn Zuhrah (p. 201), Muḥaqqiq al-Thānī (vol. 3, p. 385), Shahīd al-Awwal (vol. 2, p. 32), Shahīd al-Thānī (vol. 3, p. 24), and 'Allāmah al-Ḥillī (vol. 1, p. 344).
2. Ayatollah Muḥammad Ṣadr, in addition to having issued a fatwa on the prohibition of poisoning the regions and lands inhabited by disbelievers, takes a step further by stating, “The term ‘poison’ (*samm*) is attested in the hadith transmitted by al-Sukūnī, but it is undoubtedly applicable to any unconventional weapon (Ṣadr, 1999, 2: 384).

3. Ayatollah Khu'ī says, "Utilizing 'poison' (*samm*) in the lands of disbelievers is prohibited by the Prophet's injunction attested in the reliable hadith narrated by al-Sukūnī on the authority of Abū 'Abd Allah (Imam al-Ṣādiq) who in turn narrates from the Commander of the Faithful, Imam 'Alī (Khu'ī, 1989: 371).
4. In his *Jawāhir al-Kalām fī Sharḥ Sharā'i' al-Islam* Ayatollah Shaykh Muḥammad Ḥasan ibn Bāqir ibn 'Abd al-Raḥīm ibn Muḥammad ibn 'Abd al-Raḥīm al-Sharīf al-Isfahānī says that 'prohibition of poisoning' attested in the Prophetic hadith is referred to by many jurists – e.g. Shaykh al-Ṭūsī in *al-Nihāyah*, Ibn Zuhra in *Ghunyah al-Nuzū'*, Ibn Idrīs in *Sarā'ir*, 'Allāmah in *Mukhtaṣar al-Nāfi'*, *Tabṣirah*, and *Irshād*, Shahīd al-Awwal in *Durūs*, and Muḥaqqiq al-Thānī in *Jāmi' al-Maqāṣid*.

He further writes that according to Ibn Idrīs such poisoning is attested in further sources – 'Allāmah and Shahīd (*Lum'ah*). Shahīd terms it 'reprehensible', rather than 'prohibited', and says that the reprehensibility declared by such jurists is that they did not believe in the reliability of that hadith and also al-Sukūnī's reliability in hadith transmission.

In his critique of the view held by those jurists he says that al-Sukūnī is a reliable hadith transmitter and his transmitted hadiths are to be trusted according to the standards of hadith transmission and the consensus of authorities in the field of hadith transmission authorities (*rijāl*). Accordingly, the transmission chain of the hadith in question is sound and the fatwa as to reprehensibility of resorting to poisoning the lands inhabited by disbelievers is unacceptable and fatwas in this regard should declare the prohibition of taking such unwarranted measure.

He also says that there are some jurists who hold that it would be unlawful to poison lands when such poisoning results in loss of civilians' lives but resorting to such measure in cases leading to destruction of the enemy in war zones will not be unlawful since taking such measure will lead to victory.

In refuting such view he says that poisoning lands aiming at taking the life of the enemy, even when leading to victory, will not be permissible, since the contextual content of the hadith is unconditionally applicable and notwithstanding the dependence of Muslims' victory on poisoning lands it will still be indicative of prohibition.

Accordingly, it will be impermissible to take the life of the enemy in the war zone by poisoning even if resorting to such measure will lead to Muslims' victory over the enemy. The view held by Shaykh Muḥammad Ḥusayn, prominent Shia jurist and the author of *Jawāhir al-Kalām*, is far progressive than international laws on prohibition of utilizing WMD.

5. In their fatwas many contemporary jurists have declared the use of unconventional weapons unlawful.

## **Conclusion**

Based on reliable hadiths and fatwas issued by past and present-day jurists it is unlawful to utilize unconventional weapons since it will be similar to poisoning war zones.

## **E. Prohibition of Incendiary Weapons**

Prohibition and reprehensibility of utilizing incendiary weapons are attested in hadith literature and such injunctions are also applicable

to prohibition of making use of unconventional weapons, since instances of using such weaponry at the time of the Messenger of God and the Imams were, unlike modern-day sophisticated incendiary weapons, quite primitive. Therefore, the contextual content of the hadith is applicable to any incendiary weapon, even though it happens to be nuclear and it was referred to in our discussion on ‘poisoning’.

### **Hadiths**

Prohibition of utilizing incendiary weapons in war is attested in a number of hadiths like the following:

1. Abū ‘Abd Allah (Imam al-Şādiq) is quoted as saying that upon appointing anyone to some position the Prophet of Islam said to him: “Be wary of God Almighty in your affairs as well as those of your close companions. Fight in the name and cause of God. Take the lives of disbelievers, but avoid going to extremes in so doing. Do not mutilate anyone. Do not take the lives of children and the sick. Do not set fire to palm trees. Do not drown anyone. Do not fell fruit trees. Do not burn agricultural lands (Ḥurr al-‘Āmilī, 1988: 6, 43).
2. The Messenger of God is narrated by Ibn Mas‘ūd as saying, “Do not punish anyone with fire since it will be God who will punish with fire” (al-Ṭūsī, 1986: 6, 143).

### **Jurists’ View on Utilizing Incendiary Weapons**

Based on similar hadiths many Muslim jurists have emphasized impermissibility of utilizing incendiary weapons in war. It is to be noted that some WMD are incendiary in nature and, as a consequence, making use of them is undoubtedly unwarranted.

Mention may be made of the following sources:

1. In *Sharā'i' al-Islām* (known as the Qur'an of jurisprudence) Muḥaqqiq al-Ḥillī says that making use of any form of incendiary weapons is unlawful.
2. Muḥaqqiq al-Thānī also states that making use of incendiary weapons in war aiming at burning trees, agricultural produce, animals, and innocent people is unlawful (Muḥaqqiq al-Ḥillī, 1994: 21, 66).
3. Ibn Idrīs is also one of the jurists who emphasized that it would be impermissible to confront the enemy with incendiary weapons (Muḥaqqiq al-Karakī, 1987: 3, 385).

## **Conclusion**

Based on the hadiths and fatwas it can be concluded that it is unlawful to utilize unconventional weapons in war since the impermissibility of utilizing incendiary weapons is applicable to unconventional weapons.

## **E. Principle of Prohibition of Assassination**

The evidence substantiating prohibition of WMD includes the hadiths indicative of prohibition of assassinating and taking the lives of people beyond war zones. It goes without saying that making use of WMD would be an advanced form of assassination and Principle of Prohibition of assassination would be applicable to each and every human whose life would be wasted and, consequently, the arguments as to prohibition of assassinating one person would be applicable to prohibition of making use of unconventional weapons.

Numerous hadiths as to prohibition of assassination include:

“Assassination is shackled with faith. A believer never assassinates.” It is attested in Abū Mikhnaf’s *Maqatal*, al-Ṭabarī’s *Ta’rīkh*, and also in *Tanzīh al-Anbiyā’*.

Such approach was adopted by the Messenger of God, the Infallible Imams, and their followers, e.g. Ḥaḍrat Muslim who resided in Kufa. It is narrated that ‘Ubayd Allah ibn Ziyād intended to visit Sharīk ibn A‘war, a Shia friend of Imam al-Ḥusayn, the Master of Martyrs. Sharīk who had fallen sick at that time was visited by Muslim and it was their plan that the latter hid behind a curtain and upon ‘Ubayd Allah ibn Ziyād’s visit Sharīk would say, “Let me have a sip of water” thus signaling Muslim to attack Ziyād and take the life of that corrupt man.

Upon ‘Ubayd Allah’s visit Sharīk gave the signal, but there was no response by Muslim. Sharīk gave another signal and then recited a poem about a prey escaping from a trap. Again there was no response. ‘Ubayd Allah got wind of it and escaped. Sharīk asked Muslim, “Why did you not attack him?” He replied, “Because of the hadith narrated from the Messenger of God: ‘Assassination is shackled with faith. A believer never assassinates’ (Abū Mikhnaf, 1999: 165).

There are instances of the Infallible Imams’ prohibition of any form of assassination and attacking someone unawares, including ‘Alī’s rejection of a suggestion as to taking the lives of his opponents following the demise of the Messenger of God (Ibid).

## **Conclusion**

It may be inferred from Islamic sources and principles as to prohibition of assassination that it is impermissible to utilize WMD as a consequence of which people will lose their lives unawares.

## **F. Principle of Prohibition of Aggression**

As a term in Islamic jurisprudence, aggression (*i 'tidā'*) is related to many defining (*taklīfī*) and declaratory (*wad'ī*) laws, including prohibition of utilizing unconventional weapons in war. It goes without saying that making use of WMD is indubitably an instance of aggression. Therefore, it is based on the blessed verses of the Holy Qur'an and hadiths as to prohibition of aggression, i.e. violating the rules of war, that fatwas can undoubtedly be issued on impermissibility of WMD, as it is widely attested in Shia and Sunni sources.

### **Verses of the Holy Qur'an**

There are numerous verses of the Holy Qur'an as to prohibition of aggression in utilizing weaponry. An instance falling into this category is the following:

*Fight in the way of Allah those who fight you, but do not aggress. Indeed Allah does not like aggressors (2:190).*

This is one of the most significant verses concerning prohibition of utilizing WMD as it may be used in a number of principles and laws governing fighting war with the enemy. Such principles include the following:

- A. Principle of proportion in weaponry;
- B. Principle of making a distinction between armed forces and civilians like children, women, the elderly, the sick, the wounded, and also animals, trees, agricultural lands, and environment in general. It is attested in this verse that making use of any form of weaponry leading to aggression is impermissible. Whatever involves harming animals, plants, and environment is unlawful, since the injunction "do not transgress" in the blessed verse bears general application and



applies to any form of aggression even that affecting environment.

### **Views Held by Qur'an Exegetes**

Many Shia and Sunni exegetes have inferred further material but it is for the sake of brevity that mention will be made below of a few instances.

‘Allāmah Ṭabāṭabā’ī maintains that prohibition of spreading war and taking the lives of civilians in the lands of the enemy is not particular but such prohibition includes harming women, children, the elderly, and the like in those lands (Ṭabāṭabā’ī, 1995: 2, 87). In his discussion on the applicability of “do not transgress” he says, “In case a war breaks out prior to offering a proposal of reconciliation by taking the truth into account and calling each other to it, such war will be impermissible since it falls in the category of aggression.

Ayatollah Makārim Shīrāzī writes, “The verse indicates that besides impermissibility of spreading war to civilian zones and harming plants, trees, orchards, and agricultural lands, it will not be permissible to utilize poisonous material aiming at poisoning the drinking water to be used by the enemy” (Makārim Shīrāzī, 1976: 2, 19).

In discussing the blessed verse in question Muqaddas Ardabīlī says, “Instances of aggression that is impermissible include taking initiative in commencing a war, taking the lives of disbelievers with whom Muslims have concluded peace treaties, failing to call the enemy to accept the truth, and taking lives undeservingly and inappropriately (Muqaddas Ardabīlī, n.d.: 306).

### **Views Held by Sunni Exegetes**

Similarly, Sunni exegetes have used the concept of aggression, attested in the blessed verse 2: 190, to declare that it is impermissible to utilize WMD. For instance, Wahbah al-Zuhaylī in *Tafsīr al-Munīr*, in discussing

instances of impermissible aggression, writes, “Taking initiative in fighting a war, taking the lives of Muslims, fighting civilians like children, women, and the elderly and destroying houses, felling trees, setting fire to agricultural lands, and the like will entail divine wrath and reprehensibility (al-Zuḥaylī, 1997: 2, 179).<sup>1</sup>

### Hadiths

Similar to the blessed verse concerning prohibition of aggression, many hadiths transmitted in Shia and Sunni sources are indicative of impermissibility of expanding war to civilian zones and harming civilians and environment, irrespective of making use of conventional or unconventional weapons.

Hadiths narrated by *Ahl al-Bayt* concerning such prohibition are numerous and may fall into different categories. Mention will be made below of one comprehensive category.

1. It is narrated from Imam al-Ṣādiq that when the Messenger of God intended to send some people to fight he would call and seat them in his presence, and said to them, “Depart in the name of God, in the cause of God, on the path of God, and by the religion of the Messenger of God. Do not go to extremes. Do not mutilate the enemy. Do not resort to deception. Do not take the lives of the elderly, children, and women. Do not cut off trees unless demanded by exigencies...<sup>2</sup> (al-Ṭūsī, 1986: 6, 138 – 139).<sup>3</sup>

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1. For further details about the views held by Sunni exegetes, see al-Ṭaṭṭāwī, n.d.: 1, 4, 6; Ibn al-‘Arabī, n.d.: 1, 104; al-Ṭabarī, 1984: 1, 82; al-Ṭa‘labī 2001: 2, 87.

2. The exception “unless exigencies demand them” is only applicable to not felling trees but prohibition of taking the lives of the elderly, women, and children is unconditionally applicable.

3. Kulaynī, 1986: 5, 27; Majlisī, 1983: 19, 177; Fayḍ Kāshānī, 1985: 15, 95; Ḥurr al-‘Āmilī, 1988: 15, 58; this hadith is also narrated from Imam al-Ṣādiq through another transmission chain,

2. It is narrated from ‘Alī on the authority of Imam al-Ṣādiq that when the Messenger of God intended to marshal an army or some forces to fight, he would enjoin their chief to be wary of God in his heart and enjoin his men to treat Muslims well. He would say, “Fight in the name of God, in the cause of God, and for the followers of the Messenger of God. Take the lives of the enemy when and where necessary... Do not take the lives of children, the elderly, and women when they do not fight with you. Avoid going to extremes. Do not mutilate the enemy nor do you resort to deception (al-Tamīmī al-Maghribī, n.d.: 1, 369; cf. Muḥaddith al-Nūrī, 1986: 11, 39).
3. A similar hadith is narrated from the Prophet of Islam on the authority of Imam al-Ṣādiq through ‘Alī ibn Ibrāhīm, Ḥārūn ibn Muslim, and Mas‘adah ibn Ṣadaqah, “When the Prophet intended to send a chief to lead a campaign he would call him to be wary of God Almighty in particular and would expect the same from the chief’s companions in general. He would ask him to fight disbelievers in the name of God and in the cause of God and avoid going to extremes, mutilating the enemy, and taking the lives of children (Kulaynī, 1986: 5, 29 – 30; al-Ḥurr al-‘Āmilī, 1988: 15, 58; Majlisī, 1982: 19, 179).

### **Hadiths Narrated through Sunni Transmission Chains**

Numerous hadiths of a similar nature have been narrated through Sunni transmission chains, a few of which will be mentioned below:

1. Khālid narrates from Anas ibn Mālīk that the Messenger of God said, “Depart in the name of God and by the religion of the

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see al-Barqī, 1951: 2, 355; Kulaynī, 1986: 5, 30; al-Tūsī, 1986: 97, 25.

Messenger of God. Do not take the lives of the elderly, children, minors, or women. Do not go to extremes. Do good to people that God likes good doers... (al-Bayhaqī, n.d.: 9, 90; cf. Ibn Abī Shaybah, 1988: 7, 654; Ibn ‘Abd al-Barr, 2000: 5, 32 – 33; Ibn ‘Abd al-Barr, *al-Tamhīd*, 1967: 24, 232).

2. Ibn Jarīr, Ibn al-Mundhir, and Ibn Abī Ḥātim narrate from Ibn ‘Abbās that “Do not transgress” implies ‘do not take the lives of women, children, or the elderly. Do not use poison. Do not mutilate [the enemy]. If you commit such acts you will transgress [violate the bounds] (al-Suyūfī, n.d.: 1, 205).
3. It is narrated by Sulaymān ibn Barīdah from his father that when the Messenger of God appointed an army general he enjoined him in particular to be God wary and be beneficent to Muslims. He said, “Fight in the name of God. Take the lives of disbelievers. Fight but do not go to extremes. Do not resort to deception. Do not mutilate the enemy. Do not take the lives of children. When you confront your disbelieving enemy ask them to take one of the three qualities into account” (Aḥmad ibn Ḥanbal, n.d.: 5, 58; cf. al-Qazwīnī, n.d.: 2, 935; al-Tirmidhī, 1982: 3, 86; al-Bayhaqī, n.d.: 9, 49; al-Ḥaythamī, 1987: 5, 256; Ibn Abī Shaybah, 1988: 7: 644; al-Nasā’ī, 1990: 5, 172, 241; al-Nīshābūrī, 1980: 240; al-Bayhaqī, n.d.: 6, 520).
4. It is narrated by Sulaymān ibn Barīdah from his father that when the Messenger of God appointed an army leader he enjoined him in particular to be God wary and be beneficent to Muslims. He said, “Fight in the name of God. Take the lives of disbelievers. Fight but do not go to extremes. Do not resort to deceiving. Do not mutilate the enemy. Do not take the lives of children (al-Tirmidhī, 1982: 2, 431).

### **Views Held by Shia Jurists**

It is based on the verse “Do not transgress” and numerous hadiths that Shia jurists have emphasized prohibition of utilizing WMD. A detailed investigation would fall beyond the present study; however, mention will be made below of few instances.

1. It is impermissible to fight women, but in cases where they take the lives of Muslims and render assistance to their husbands and men, restrain them. If taking their lives be demanded by exigencies, it would be permissible to take their lives and there will be nothing wrong with it (al-Ṭūsī, 1979: 1, 292).
2. It is not permissible to take the lives of women even if they participate in fighting wars. However, if taking their lives be demanded by exigencies there would be nothing wrong with it (Ibn al-Barrāj, 1985: 1, 303).<sup>1</sup>
3. Question: It is not be permissible to take the lives of the lives of disbelievers’ children, women, and those of unsound mind. The Prophet is narrated by al-Jumhūr on the authority of Yūnus ibn Mālīk as saying, “Depart in the name of God and by God and by the religion of the Messenger of God. Do not take the lives of the elderly, children, and women.” Through the Shia transmission chain Imam al-Ṣādiq is narrated on the authority of Abū Ḥamzah

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1. Military necessity, as a termed used in the laws governing jihad and also international humanitarian laws, is employed in the sense of any measure as the only and last resort required in defeating the enemy or preventing enemy aggression. The principle indicates that any belligerent party should utilize the forces to the extent required in defeating the enemy. Such principle prevents making use of unnecessary force and it is considered as an age-old and unchanging principle of humanitarian rights. The principle is also taken into account in international documents and it is declared that it is prohibited to make use of unnecessary means of causing suffering and destroying possessions (The Hague Convention, Article 23).

al-Thumālī as saying, “When the Messenger of God intended to dispatch forces to fight he would call them and said to them, “Depart in the name of God, by God, in the cause of God, and by the religion of the Messenger of God. Do not go to extremes. Do not take the lives of the elderly, children, and women if you notice that you can encourage them to become your brethren in faith grant them leave. If you encounter people who do not intend to fight with you, avoid taking their lives” (‘Allāmah al-Ḥillī, 1914: 911).

4. It is not permissible to take the lives of the mentally unsound, children, and women, but it would be permissible to take their lives when it would be demanded by exigencies (‘Allāmah al-Ḥillī, 1992: 1, 486).
5. It is impermissible to take the lives of the mentally unsound, children, and women and when they are used as human shields leave them unharmed unless taking their lives be demanded by exigencies (‘Allāmah al-Ḥillī, 2000: 80).
6. It is impermissible to take the lives of the mentally unsound, children, and women even though they assist disbelieving fighters unless exigencies demand taking their lives (Najafī, n.d.: 21, 73).
7. “Fifth: Prohibition of taking the lives of those who have neither fought nor assisted fighting with Muslims. The Messenger of God prohibited taking the lives of those who had not fought in Mecca and prohibited taking the lives of women, children, and the elderly who had neither fought nor had assisted warriors even by devising plans. He also prohibited taking the lives of

servants, monks, the disabled, and residents of monasteries who had not participated in wars against Muslims in any form” (Aḥmadī Miyānjī, 1990: 91).

### **Views Held by Sunni Jurists**

Similar to Shia authorities, Sunni jurists, based on the verses of the Holy Qur’an and hadiths, have issued fatwas against utilizing WMD and taking any measure leading to spreading war to civilian zones, transgressing civilian rights, and laying waste to environment, animals, agricultural lands, trees, and homes. Mention will be made below of some of the instances.

#### **Ḥanafī Jurists**

1. “Do not take the lives of the mentally unsound, women, children, the visually impaired, the disabled, those without right hands, or the elderly” (Mawṣilī al-Ḥanafī, 1998: 4, 128).
2. “Do not take the lives of women, children, the elderly, the disabled, and the visually impaired since it would not be acceptable to take their lives for their not having participated in fighting against Muslims, the invalid, one whose right hand has been cut off, and one whose hand and foot have been cut off in opposite sides” (al-Shawkānī, 2000: 12, 411).
3. “Do not take the lives of women, children, the elderly, the disabled, and the visually impaired since it would not be acceptable to take their lives for their not having participated in fighting against Muslims, the invalid, one whose right hand has been cut off, and one whose hand and foot have been cut off in opposite sides” (*al-‘Ināyah Sharḥ al-Hidāyah*, vol. 7, p. 425).

4. “It would not be acceptable to take the lives of women, children, the mentally unsound, and the elderly of the enemy, since God Almighty says: *Fight in the way of God those who fight you* (2:190) and they do not fight. The Messenger of God also said, “Do not fight with the family members [of warriors] and the oppressed” (al-Sarakhsī, 1971: 1, 449-450).

### **Shāfi‘ī Jurists**

1. “(Section) It would not be acceptable to take the lives of their women and children when they do not fight [Muslims] since Ibn ‘Umar, may God be satisfied with him, narrates from the Messenger of God as saying that it is prohibited to take the lives of women and children and hermaphrodites since the latter might be men or women and it would not be just to take their lives in doubt” (al-Nawawī, n.d.: 19, 295).
2. [al-Shāfi‘ī] may God Almighty grant him Mercy [is quoted as saying], ‘It would not be permissible for any Muslim to take deliberately the lives the women and children since the Messenger of God, may divine blessings be upon him, prohibited taking their lives as it is narrated from Sufyān from al-Zuhrī from Ibn Ka‘b ibn Mālik from his paternal uncle that the Prophet prohibited those whom he had sent to Ibn Abī al-Ḥaqīq to take the lives of the women and children’” (Ibn Idrīs, 1982: 4, 252 – 253).
3. “And it is prohibited to take the lives of children, the mentally unsound, women, and hermaphrodites. Commentary: (and it is prohibited to take the lives of children and the mentally unsound) and the slaves (and women and hermaphrodites) since



it is prohibited to take the lives of children and women in the two *Ṣaḥīḥs* [Muslim's and Bukhārī's standard collections of hadiths bearing the same title] and the prohibition applicable to children applies to the mentally unsound and that applicable to women applies to hermaphrodites as they may be females (al-Sharbīnī, 1958: 4, 222 – 223).

4. "The Messenger of God is narrated as prohibiting taking the lives of women and children. The scholars are unanimous in acting upon this hadith and prohibiting taking the lives of women and children when they do not fight [Muslims], but if they do, the majority of scholars say that their lives should not be spared (al-Nawawī, 1999: 12, 48).<sup>1</sup>

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1. Shīrāzī, 2003: 3, 439.

Section: It would not be permissible to take the lives of their women and children when they do not fight, since the Messenger of God is narrated on the authority of Ibn 'Umar, may God be pleased with him, as saying that it would be impermissible to take the lives of women and children and it would not be permissible either to take the lives of hermaphrodites since they may be either men or women and it would not be permissible to take their lives when in doubt, but if they fight [Muslims] it would be permissible to take their lives as it is narrated on the authority of Ibn 'Abbās, may God be pleased with him, that the Prophet passed by the dead body of a woman whose life had been taken in the battle of Ḥunayn. He said, "Who took her life?" A man replied, "I did." The Messenger of God said, "I captured and seated her beside me but she tried to seize my sword and take my life with it but I took hers." The Prophet did not favor taking the lives of women unless they attempted to take the lives [of Muslims]. [He said,] "But when Muslim women made an attempt to take your life it would be permissible to take their lives and [bear in mind that] they were formerly disbelievers" (al-Zarkashī, 2006: 2, 1061).

Secondly, it is impermissible to take the lives of children, the mentally unsound, women, and hermaphrodites. It is attested in *al-Ṣaḥīḥ* that it is impermissible to take the lives of women and children, but if they fight it shall be permissible to take their lives (al-Māwardī, n.d.: 1, 70).

It would be permissible to take the lives of children, the mentally unsound, slaves, women, and hermaphrodites when they fight, but if they do not fight it will be prohibited to take their lives since it is narrated in the *Ṣaḥīḥayn* (the two standard collections of hadiths by Muslim and Bukhārī) that the Prophet prohibited taking the lives of women, children, the mentally unsound, slaves, and

### Ḥanbalī Jurists

1. “Section. The lives of women and the elderly should be spared. It is narrated by Mālik and other *aṣḥāb al-ra’y*, i.e. proponents of the use of independent legal reasoning to arrive at legal decisions, on the authority of Abū Bakr al-Ṣidīq and Mujāhid. It is narrated from Ibn ‘Abbās, with respect to the Qur’anic attestation *do not transgress* (2:190) that it implies the prohibition of taking the lives of women, children, and the elderly” (Qudāmah (A), n.d.: 10, 541 – 544).
2. “Question: When they are defeated do not take the lives of children, women, monks, the elderly, and the visually impaired

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hermaphrodites (al-Ghamrāwī, n.d.: 435).

“It is impermissible to take the lives of children, the mentally unsound, women, and hermaphrodites unless they fight and it would be in that case that their lives could not be spared. It would be permissible to take the lives of monks, slaves, the elderly, the visually impaired, and women unless they fight and there shall be no doubt in not sparing their lives” (al-Shirwānī and al-‘Ibādī, n.d.: 9: 241).

“By ‘unless they fight’ it is intended that Muslims should confront fighting disbelievers but if they are put to flight they do not need to take their lives. If it were possible to put them to flight it would be permissible to do likewise” (al-Ḥusaynī al-Ḥaṣīnī al-Dimashqī, n.d. 1, 500).

It would be prohibited to take the lives of disbelievers’ women and children and the same would be applicable to the mentally unsound unless they fight. The Prophet, may divine blessings be upon him, prohibited taking their lives and it is narrated on the authority of Ibn ‘Umar, may God be pleased with both of them [that is ‘Umar and his son] that the Prophet in one of the battles in which he participated passed by the dead body of a woman and the Prophet disfavored taking the lives of women and children and the two Shaykhs [viz. al-Bukhārī and Muslim, the compilers of the two standard collections of hadiths] have narrated this hadith” (al-Māwardī, n.d. 14, 424 – 425).

Section 3: It is not permissible to fight women and children in war unless they fight in which case their lives should not be spared in order to ward off the troubles that they may cause. Besides families of the enemy it is not permissible to take the life of anyone who does not fight, since the Prophet repudiated taking the lives of women and children as they are captives and their possessions will be booties taken in war.

unless they fight with you. It is intended to say that when disbelievers are defeated it will not be permissible to take the lives of innocent children since Ibn ‘Umar narrates from his father, may God be please with both of them, that the Prophet prohibited taking the lives of women and children. There is consensus as to it, since they may be taken captives and taking their lives would be a waste and it may be that they convert to Islam and taking their lives would be taking the lives of Muslims” (‘Abd al-Raḥmān ibn Qudāmah, n.d.: 10, 400).

3. “It is not permissible to take the lives of their women and children since it is narrated from the Prophet on the authority of Ibn ‘Umar that it would be impermissible to take the lives of women and children since they may be taken captives and fall into the possession of Muslims and taking their lives would be wasting the possession of Muslims. It is not permissible to take the lives of the elderly since it is narrated from the Prophet as saying, ‘Do not take the lives of the elderly, children, or women’. It is narrated on the authority of Abū Dāwūd that it would not be permissible to take the lives of hermaphrodites and the visually impaired since they are considered to be like the elderly and it would be impermissible to take the lives of monks as it is narrated from Abū Bakr al-Ṣidīq that in giving wise counsels to Yazīd ibn Abī Sufyān upon sending him to Syria he said, ‘Do not take the lives of children, women, the elderly, those residing in monasteries, and hermaphrodites since they might be women whose lives should be spared because of the doubt; nonetheless, when any of those people fight [Muslims] their lives should not be spared” (‘Abd Allah ibn Qudāmah, (B), n.d.: 4, 122).

### **Mālikī Jurists**

1. “Do not take the lives of women and children as it was prohibited by him, may divine blessings be upon him” (Ābī al-Azharī, n.d.: 414).
2. “It was mentioned in the first two sections of the book that it would not be permissible to take the lives of women, children, the elderly, or the monks residing in monasteries and leave them their possession wherewith they live. It is impermissible to take the lives of slaves and mercenaries. It is prohibited in Muslim [’s standard collection of hadith] to take the lives of women and children and it is impermissible according to al-Nasā’ī to take the lives of women, children, and slaves” (al-Qarāfī, 1994: 3, 397 – 398).

### **Zāhirī Jurists**

“Question. It would be unlawful to take the lives of their women and minors unless they fight since there would be no other choice for Muslims but to take their lives. It has been narrated on the authority of al-Bukhārī that Aḥmad ibn Yūnus al-Layth, i.e. Ibn Sa’īd, narrates from Nāfi’ who in turn reports from Ibn ‘Umar as saying, “I saw a dead body in a battle in which the Prophet fought and he prohibited taking the lives of women and children” (Ibn Ḥazm, n.d.: 7, 296).

### **Conclusion**

Discussions on the requirements of the first principle and prohibition of poisoning regions inhabited by polytheists, and impermissibility of utilizing incendiary weapons, resorting to assassination, and transgressing

the bounds of conventional weapons led us to this indubitable conclusion that utilizing any form of unconventional weapons, e.g. biological and chemical weaponry, has been declared unlawful in all Islamic jurisprudential schools, e.g. Twelver Shia, Mālikī, Ḥanafī, Shāfi‘ī, Ḥanbalī, and Zāhirī schools.

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