

# Combating Gender-Based Crimes in Armed Conflicts Stemming from Extremism from the Perspective of Islamic Jurisprudence and International Law

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Islam has provided various forms of protection for women and civilians in armed conflicts. A portion of these protections pertains to the general and specific legal safeguards for women in armed conflicts, which can be observed in Islamic sources such as the Holy Quran and the prophetic tradition (Sunnah). Similarly, the international community has addressed perpetrators of sexual crimes in armed conflicts since 1990. However, the International Criminal Tribunals for the Former Yugoslavia and Rwanda initially did not prosecute individuals responsible for such crimes. Over time, in response to the sexual assaults committed in Yugoslavia, feminist organizations advocating for the prosecution of these crimes became active in international criminal courts, exerting pressure through public opinion. Consequently, both in Islam and in the international community, various conventions have been adopted to protect women against sexual violence. The research method in this study is descriptive-analytical. The primary research questions are as follows: What approach does international law take in addressing gender-based violence? What measures have been considered in Islamic jurisprudence to combat gender-based crimes? International law adopts a similar approach to confronting gender-based violence in situations arising from state failure and religious extremism. Its role in addressing violence against women in the internal wars of these countries is primarily through issuing resolutions via international institutions without direct intervention. In Islamic jurisprudence, Quranic verses and the prophetic tradition serve as the basis for combating gender-based crimes. The objective of this study is to examine the enforcement mechanisms of international law and Islamic jurisprudence in implementing enacted laws concerning gender-based sexual violence.

**Keywords:** Gender-based crimes, armed conflicts, extremism, Islamic jurisprudence, international law.

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## 1. Introduction

A careful and in-depth examination of the verses of the Holy Quran reveals that a significant portion of the principles and subjects of humanitarian law, which

are based on compassion, peace, and human values, were emphasized in Islam over fourteen centuries ago. Additionally, Islamic teachings include specific and unique rulings aimed at protecting civilians, particularly women and children, during armed conflicts. Given God's



omniscience and close supervision over human actions, as well as the religious responsibilities imposed on individuals, these principles and regulations possess an enhanced level of enforceability. Another distinctive feature of the legal protective principles in Islamic jurisprudence is the existence of special rules for warfare, which will be discussed in this article.

Furthermore, with General Recommendation No. 19 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), violence against women was, for the first time, recognized as a form of gender-based discrimination and was integrated into the system addressing discrimination against women, which had previously not explicitly recognized violence against women. Consequently, states became obligated to combat violence against women, as it was acknowledged as a form of gender-based discrimination under international human rights law. The European Convention on Human Rights has also established regulations to combat domestic violence against women. Under these obligations, states are not only required to protect victims of violence and punish perpetrators but must also eliminate the root causes of violence.

The research method in this article is descriptive-analytical. The main research questions are: What approach does international law take in addressing gender-based violence? What measures have been considered in Islamic jurisprudence to combat gender-based crimes? International law adopts a similar approach to addressing gender-based violence in situations arising from state failure and religious extremism, and its role in combating violence against women in the internal conflicts of these countries is primarily through issuing resolutions via international institutions without direct intervention. In Islamic jurisprudence, Quranic verses and the prophetic tradition (Sunnah) serve as the foundation for combating gender-based crimes. The objective of this article is to examine the enforceability of international legal provisions and Islamic jurisprudence in the implementation of enacted laws concerning gender-based sexual violence.

## 2. Concepts

### 2.1. The Concept of Crime

According to legal definitions, any act or omission that has been assigned a punishment by law is considered a crime. This means that to distinguish between criminal and non-criminal behavior, one must refer to penal laws and determine whether a specific behavior has a prescribed punishment. Thus, if an action or behavior is punishable under the law, it is classified as a crime (Fazeli, 2019).

In Quranic terminology, crime refers to committing an act or making a statement that has been prohibited by the divine legislator (Shari') and for which a punishment has been prescribed. In other words, crime or sin is defined as disobedience to the commands and prohibitions of the sacred lawgiver.

To understand the meaning of crime in the Holy Quran, one must examine words such as "crime" (*jurm*), "sin" (*ithm*), "wrongdoing" (*sayyi'ah*), "offense" (*khati'ah*), and "guilt" (*dhanb*), all of which signify an evil or reprehensible act. Furthermore, reference can be made to Quranic verses addressing various crimes subject to retribution (*qisas*), including intentional and unintentional homicide, adultery (*zina*), false accusations (*qadhf*), theft (*sariqah*), waging war against God and His Messenger (*muharibah*), and rebellion (*baghi*).

One of the Quranic verses that addresses crime in the context of fabricating lies against God and denying His revelations states: "And who is more unjust than one who invents a lie about Allah or denies His signs? Indeed, the criminals will not succeed." (Surah Yunus, Verse 17).

The term *ithm* is also used in the Quran to denote wrongdoing and injustice, as seen in the verse: "And do not consume one another's wealth unjustly or send it to the authorities in order to obtain a share of others' wealth sinfully while you know [it is wrong]." (Surah Al-Baqarah, Verse 188).

The words *khati'ah* and *sayyi'ah* are likewise employed in the Quran to mean wrongdoing and evil: "Yes, whoever earns evil and his sin has encompassed him—those are the companions of the Fire; they will abide therein eternally." (Surah Al-Baqarah, Verse 81).

Similarly, the word *dhanb* is synonymous with crime in the Quran, as seen in the verse: "And sufficient is your

*Lord as an Acquainted and Seeing [One] of the sins of His servants."* (Surah Al-Isra, Verse 17).

In the Quran, specific punishments are prescribed for certain crimes, including intentional and unintentional murder, adultery, false accusations, theft, waging war against God and His Messenger, and rebellion against the Imam (Karbasi, 2002).

## 2.2. The Concept of Violence

Violence is defined as harshness, severity, aggression, and forcefulness, in contrast to gentleness and softness. It refers to a state of behavior in which an individual, through the use of physical or non-physical force, imposes their will upon others. Violence can also be triggered by anger. Linguistically, violence signifies roughness, severity, and harshness.

In specialized texts, the term violence corresponds to the English word *violence*, which means force, coercion, aggression, severity, and hardship (Haqshenas, 2012). Conceptually, violence is defined as an intentional behavior aimed at causing harm to oneself or others. Some scholars argue that this behavior is innate and instinctive, while others consider it acquired. Violence in human relationships is an age-old and fundamental problem, to the extent that it is perceived as an inseparable aspect of human nature (Aghakhani, 2012, p. 70).

At times, the term violence is used to denote firmness and the refusal to overlook the offenses of suspects and criminals. In this context, it is contrasted with leniency in law enforcement. Another application of the term relates to religious intolerance, intellectual rigidity, and the refusal to compromise with political rivals, as opposed to religious or political tolerance and acceptance of others. In essence, violence entails the coercion or elimination of others through unlawful and irrational means (Rahgoshay, 2016).

## 2.3. The Concept of Violence Against Women

Violence is defined as inappropriate behavior or treatment by an individual or group towards another individual or group. According to the definition provided by the United Nations General Assembly in the 1993 **Declaration on the Elimination of Violence against Women**, "*Violence against women includes any gender-based act that results in or increases the likelihood of*

*sexual, physical, or psychological harm to women. This includes threats of harmful acts, coercion, or any forceful measures that deprive women of their freedom in both private and public spheres."*

According to this definition, violence is not confined to the family domain but extends to various social contexts. Examples of violence mentioned in this declaration include all forms of sexual abuse of female children within the family, forced marriages that serve as economic transactions, marital rape, female genital mutilation as a cultural practice in some societies, trafficking of women, and any form of sexual harassment or assault in workplaces and educational institutions ("[Declaration on the elimination of violence against women](#)," 1994).

## 2.4. Religious Extremism

Modern religious extremism emerged with the formation of Al-Qaeda in Afghanistan. The events in Afghanistan and its occupation by the Soviet Union marked a turning point in the activities of extremist groups. These groups utilized military experiences gained during Afghanistan's occupation to become highly trained in carrying out armed operations. The war between the Mujahideen and the Soviet Union led to the gathering of Muslims from various regions, fostering a sense of Islamic cooperation and unity, which became the foundation for further extremist activities (Karamzadi, 2016).

The occurrence of events such as the September 11 attacks marked a fundamental shift in Al-Qaeda's approach to terrorism, introducing what is referred to as global terrorism. Unlike traditional terrorism, global terrorism was not confined to a specific geographical area; it operated with a flexible, network-based, and multidimensional structure, capable of mass destruction and casualties. In this regard, Al-Qaeda is considered the founder of modern global terrorism. This form of terrorism capitalized on global conditions and the use of internet-based media to secure financial resources, recruit members, and establish a network of terrorist groups across the world. Each group operated independently but maintained political and ideological connections with Al-Qaeda.

Following the U.S. and its allies' invasion of Afghanistan, certain Al-Qaeda members, such as Abu Musab al-Zarqawi, exploited the crisis and power vacuum in Iraq,

leading to the formation of Al-Qaeda in Iraq in 2003, with Abu Omar al-Baghdadi as its leader. In 2010, Abu Bakr al-Baghdadi took over leadership. With the outbreak of the Syrian Civil War (2011), ISIS took advantage of the dissatisfaction among the Sunni majority and, despite the presence of multiple opposing and rebel groups, managed to capture eastern Syria near the Iraqi border. It subsequently changed its name from the Islamic State of Iraq to the Islamic State of Iraq and the Levant (ISIL/ISIS).

ISIS represented the rise of a new generation of Takfiri jihadists, fundamentally different from its predecessors, particularly Al-Qaeda (Garshasbi & Karimi Malh, 2018). From the author's perspective, ISIS's crimes against Yazidi women and children constituted severe violations of human rights. The group enslaved Yazidi women and, disregarding international conventions and Islamic law, sold them in slave markets. Moreover, to instill fear among the populace, ISIS showed no hesitation in murdering defenseless Syrian and Iraqi women and children.

### 3. Crimes Against Women in Armed Conflicts from the Perspective of Islam

Women are among the human groups that, inevitably, become involved in conflicts or suffer the consequences of such disputes. Special protection for women is one of the fundamental principles of Islamic humanitarian law. According to Islamic teachings, safeguarding women's rights remains obligatory even in the midst of armed conflicts.

It has been narrated that whenever the Prophet Muhammad (PBUH) witnessed violence against women or children, he would intervene and hold the perpetrators accountable. In one instance, during a battle led by Khalid ibn al-Walid, the corpse of a woman was found among the dead. The Prophet (PBUH), upon seeing this, became extremely upset and immediately sent someone to rebuke Khalid, instructing:

*"Indeed, the Messenger of Allah forbids you from killing women, children, or hired servants."* (Ibn Hisham, 1988).

The Prophetic tradition and teachings of the Imams also emphasize multiple layers of protective measures:

1. The Prophet prohibited the killing of women. Imam Ja'far al-Sadiq stated: *"Indeed, the Messenger of Allah forbade the killing of women."* (Hilli, 1985).

2. Imam Ali (AS) instructed his army before battle:
3. *"Do not provoke or harm women, even if they insult your honor or slander your leaders. They are weak in strength, emotions, and intellect..."* (Nahj al-Balagha, p. 318).
4. Imam Ja'far al-Sadiq (AS) was asked about the jizya (tax) for non-Muslim women. He responded:
5. *"The Prophet (PBUH) prohibited killing women and children in war, except when they actively engage in combat. If a woman fights, efforts should be made to avoid harming her unless absolutely necessary."* (Barqi, 1992).
6. Another narration explicitly prohibits the killing of women in jihad (Ihsai, 1984), while yet another forbids their killing even in enemy territories (Dar al-Harb) (Hurr Amili, 1980).

Based on these narrations, Islamic jurists (fuqaha) have ruled that killing women is impermissible unless they are combatants. Sheikh al-Tusi stated:

*"It is not permissible to kill women, even if they assist their men in war, except in cases of absolute necessity."* (Tusi, 2008).

The aforementioned narrations indicate that, in Islam, even during wartime, the lives and dignity of women must be safeguarded. If Muslim forces capture women from the opposing side, they are neither permitted to kill them nor harm them, even if the women belong to the enemy army—except in cases of retributive justice (qisas) or if they actively participate in combat.

This highlights the priority given in Islam to the protection of women during armed conflicts. Indeed, it can be argued that in Islamic warfare ethics, adherence to these principles is a fundamental obligation.

Islam has provided multiple forms of protection for war victims, especially women and non-combatants. Part of these protections includes general and specific legal safeguards for women in armed conflicts, which are found in Islamic sources such as the Holy Quran and the Prophetic tradition (Sunnah). These aspects will be examined in the following sections.

#### 3.1. General Protections for Women in Armed Conflicts from the Perspective of the Holy Quran

Islamic teachings form the earliest foundation for the development of international humanitarian law. In Islamic thought, human beings are described as *"the best*

of creators" (Al-Mu'minun 23:14), created with a divine spirit (Al-Hijr 15:29), possessing a godly nature (Ar-Rum 30:30), and inherently pure and divine (Al-Hijr 15:22, 28; Ar-Rum 30:30). Humanity is endowed with intrinsic dignity (Al-Isra 17:70), is designated as God's vicegerent on Earth (Al-Baqarah 2:30), is honored by angelic prostration (Al-A'raf 7:11; Al-Kahf 18:61; Ta-Ha 20:116), and is considered a servant of God (Adh-Dhariyat 51:30). Accordingly, the right to life and human dignity (Al-Hujurat 49:29; Al-Isra 17:70; Al-Baqarah 2:20) is an absolute and inviolable right that must never be violated under any circumstances. The Quran strongly emphasizes the sanctity of human life (Al-Isra 17:33), stating that killing an innocent person who has not committed murder or corruption is equivalent to killing all of humanity, whereas saving a single life is akin to saving all of humankind (Al-Ma'idah 5:32).

From the author's perspective, these verses clearly indicate the protection of women's dignity in armed conflicts, as all of the aforementioned Quranic verses emphasize the preservation of life and human dignity for both men and women alike.

### 3.1.1. *Enhanced Enforcement Mechanisms*

The enforcement of any legal or regulatory rule is based on fear of shame or fear of punishment; without these two elements, there is no enforcement mechanism. However, from an Islamic perspective, God is constantly observing and witnessing human actions and speech (Al-Hadid 57:4; Al-Fajr 89:14). Even the smallest deeds and words are recorded, and individuals will ultimately face the consequences of their actions (Az-Zalzalah 99:7-8), leaving no escape from divine judgment.

Under this perspective, human beings are obligated and accountable to God for their actions. Duties and responsibilities—both individual and social—are regarded as divine obligations before the Almighty. This framework provides an additional layer of enforcement in ensuring compliance with international humanitarian law, whose obligations apply to the international community. Islamic thought does not emphasize entitlement or rights-based claims but instead focuses on duties and responsibilities. Thus, individuals must be accountable to God, to themselves, and to society (Khomeini, 2009). This responsibility can only be fulfilled through adherence to moral and spiritual values.

Such a worldview distances individuals from the false notion of absolute autonomy (Raee, 2012).

The Quranic verses referenced above encourage the preservation of others' rights and warn that the consequences of one's actions will inevitably return to them. This principle applies particularly to women affected by armed conflicts, as they are highly vulnerable and may become victims of various war crimes. Consequently, adherence to divine commandments is essential to alleviate the suffering of these individuals.

### 3.1.2. *Restricting Military Operations to Strategic and Military Objectives*

Since wars involve conflicts between military systems, not civilian populations, military operations must be restricted to strategic and military objectives. According to this principle, it is permissible to engage in warfare only against those who actively contribute to the war effort, while warfare against civilians—including women—is prohibited. This distinction between combatants and non-combatants prohibits:

- Attacking unarmed individuals, including women, children, the wounded, and the sick.
- Looting the property of the defeated.

(Zuhayli, 1983).

### 3.2. *Legal Protective Measures for Women in Armed Conflicts in the Prophetic Tradition*

An examination of the military conduct and practices of Prophet Muhammad (PBUH) reveals that many of the principles of modern humanitarian law were implemented centuries earlier by the Prophet himself. His special emphasis on protecting women and children, as well as his firm stance against violations, exemplify his legal and humanitarian protections.

Accordingly, the Prophet's protective measures for women in armed conflicts can be divided into general and specific protections, across three phases:

1. Before the war
2. During the war
3. After the war



### 3.2.1. General Prophetic Protections for Women in Armed Conflicts

The Prophet Muhammad (PBUH) demonstrated chivalrous behavior and prohibited unethical warfare tactics, including:

- Banning surprise attacks and ambushes (Kulayni, 1978).
- Prohibiting deception and betrayal in warfare (Abdul Baqi, 1990, p. 53; Al-Anfal 8:58).
- Forbidding the use of poison in warfare (Hurr al-Amili, 1988, Vol. 11, p. 46).
- Prohibiting flooding enemy lands or burning enemy crops and resources (Hurr Amili, 1984; Ibn Athir, 1965).
- Restricting unnecessary bloodshed and looting, including during the conquest of Mecca.
- Implementing protective measures for civilians, such as requiring commanders to carry special flags to distinguish soldiers from non-combatants (Ibn Hisham, 1988).
- Using distinctive uniforms and symbols to differentiate soldiers from civilians.
- Lighting large fires to create the illusion of a massive army, thereby discouraging the enemy from initiating bloodshed (Waqidi, 1988).

These general protective measures highlight the Prophet's commitment to safeguarding non-combatants during warfare.

### 3.2.2. Specific Prophetic Protections for Women in Armed Conflicts

The specific legal protections for women in armed conflicts under the Prophetic tradition can be categorized into three stages:

#### 3.2.2.1 Specific Prophetic Protections for Women Before War

Recognizing and respecting the rights of women and vulnerable individuals is of paramount importance in war. Understanding women's rights in Islam and analyzing their application in the Prophetic tradition is essential.

The Prophet Muhammad (PBUH) explicitly forbade harming women, children, and the weak, and sought to minimize their physical and psychological suffering

during conflicts. Some of his key protective measures included:

- Prohibiting the capture of civilians before full control over a war zone was established.
- Granting immunity to civilians, including women, through symbolic gestures such as lighting fires, signaling their protection, or allowing them to remain in their homes to ensure their safety (Ibn Hisham, 1988).

The Prophet's actions in pre-war, wartime, and post-war settings demonstrate that Islamic teachings prioritize the preservation of human dignity and the protection of non-combatants, particularly women, in armed conflicts. These principles continue to provide a valuable legal framework for modern humanitarian law.

#### 3.2.2.2 Specific Prophetic Protective Measures for Women During War

The principle of prohibiting the use of weapons of mass destruction, which is today recognized as international humanitarian law, was recommended and implemented by Prophet Muhammad (PBUH) over 1400 years ago. Furthermore, the prohibition of killing women and children in enemy territory (Dar al-Harb) (Hurr Amili, 1980) and the prohibition of any harm to them (Majlisi, 1984) were so strictly observed that if a woman's body was found on the battlefield, the cause of her death was investigated, and if it was determined that she was not a combatant, the killer was severely reprimanded (Najafi, 1980).

The killing of civilians, including women, is considered a form of oppression (Al-Ma'idah 5:8) and a manifestation of corruption (Al-Baqarah 2:205). Thus, the principle of distinguishing combatants from non-combatants must not be violated, as such violations lead to corruption, which is condemned by God. Some scholars believe that the Prophet's prohibition of killing women applies only to non-combatant women, while combatant women are exceptions to this rule (Amidi Zanjani, 2022).

The actions of Prophet Muhammad (PBUH) regarding women taken captive in war—who, according to the prevailing war laws of that time, were to be enslaved—demonstrate his special attention to women's rights. This was during an era when no formal humanitarian laws existed.

In the Battle of Banu al-Mustaliq (627 CE), a large number of women and children were captured, including

Juwayriya, the daughter of Harith, the leader of the tribe. At that time, captives were considered war booty, and their freedom depended on either paying ransom or remaining in slavery for life. The Prophet (PBUH), despite his personal discomfort with the practice of enslavement, could not immediately abolish it due to prevailing social norms. However, his actions demonstrated his commitment to freeing captives, especially women and children.

To facilitate their freedom, the Prophet (PBUH) proposed marriage to Juwayriya and offered to pay her ransom as her dowry, which she accepted immediately (Ibn Hisham, 1988, Vol. 3, p. 307). The significance of this action becomes even clearer upon learning that all the captive families of Banu al-Mustaliq were subsequently freed (Waqidi, 1988).

### 3.2.2.3 *Specific Prophetic Protective Measures for Women After War*

The negative effects of war on women and its harmful impact on child-rearing and family stability led Prophet Muhammad (PBUH) to implement several protective measures for widows, such as:

- Allocating stipends for widows.
- Encouraging men to marry widows to provide them with support.
- Promoting remarriage as a means of protection and social stability.
- Using state resources to facilitate the release of captives (Turbah, 60).

Additionally, Islamic law extended legal protections to enemy women. One of the primary methods of dealing with non-Muslim communities was the imposition of jizya (tax) on non-Muslims who remained in their faith (At-Tawbah 9:29). However, out of consideration for the financial and social conditions of non-Muslim women, jizya was not imposed on them. If an agreement stipulated that women should pay jizya, such a condition was considered null and void (Khomeini, 1999).

The Prophet (PBUH) also emphasized kindness and leniency toward female captives and strictly forbade their mistreatment. In one recorded incident, after the Battle of Khaybar, a Jewish woman named Safiyyah bint Huyayy (whose father had led anti-Muslim conspiracies, including instigating the Battle of the Trench) was captured along with another woman. They were led past

the battlefield, where they saw the corpses of their people, which greatly distressed them.

One of the women, overwhelmed with grief, scratched her face and threw dust over her head. Upon witnessing this, the Prophet (PBUH) became visibly upset and rebuked his companion, Bilal, saying:

*"Where is your sense of compassion? Do you lead women past the corpses of their own people?"* (Ibn Athir, 1965).

## 4. Crimes Against Women in Armed Conflicts Under International Law

Sexual violence has consistently been a component or consequence of armed conflicts, whether internal or international. It has often been used as a military tactic to weaken and subjugate enemy forces and, in some cases, has been systematically employed for ethnic and racial cleansing.

One of the most notorious and large-scale examples of systematic sexual violence occurred during the Rwandan Civil War and the Yugoslav Wars, leading to the establishment of the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) to prosecute these crimes.

Following these atrocities, the international community and the United Nations recognized the need for a permanent international court with global jurisdiction. As a result, in 1998, the Rome Statute of the International Criminal Court (ICC) was ratified by UN member states, explicitly criminalizing various forms of sexual violence against women (Radmehr & Turshizi, 2019).

Similar to Islamic legal principles, international legal instruments provide protections for women affected by armed conflicts. Accordingly, the ICC has jurisdiction to prosecute war crimes committed against women and ensure justice for victims. The court holds perpetrators accountable and aims to prevent future violations.

In the following sections, we will examine key judicial proceedings related to crimes against women in armed conflicts.

### 4.1. *Judicial Precedents of International Criminal Courts in Addressing Crimes Against Women*

Since 1990, the international community has increasingly addressed perpetrators of sexual crimes in armed conflicts. However, the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) initially did not actively prosecute such offenses.

Over time, in response to widespread sexual assaults during the Yugoslav conflict, feminist organizations began demanding the prosecution of sexual crimes in international criminal courts and applied public pressure on these tribunals.

From this period onward, international criminal law formally recognized perpetrators of gender-based violence as criminally responsible under the category of "sexual violence." Women and girls who were victims of sexual violence during armed conflicts faced atrocities such as abduction, rape, forced marriage, forced pregnancy, and coerced childbearing.

During this time, the ICTY played a pivotal role in expanding the jurisdiction of international criminal law over sexual crimes. The tribunal issued 162 indictments, with 58 convictions for sexual crimes. The ICTY judges classified rape as torture in the Čelebići case and as a crime against humanity in the Foča case, while also defining sexual enslavement as a war crime.

Following this precedent, the ICTR adopted the ICTY's approach to prosecuting sexual crimes and significantly advanced international criminal law in this area. The Akayesu case was a landmark ruling, where the ICTR classified sexual violence as an international crime. The court incorporated elements of ICTY jurisprudence and took a strong stance against sexual crimes.

In the initial indictment of the Akayesu case, sexual crimes were not included. The court determined that the omission resulted from the prosecutor's preference to drop sexual violence charges in exchange for a guilty plea on other charges (Prosecutor v. Bizimungu, 2009; Prosecutor v. Nzabirinda, 2007; Prosecutor v. Rugambarara, 2007; Prosecutor v. Serushago, 1999). However, the ICTR judges responded by demanding amendments to include sexual crimes in the indictment. In this ruling, the court classified sexual violence as a component of genocide and defined rape as a form of torture (Radmehr & Turshizi, 2019).

The Special Court for Sierra Leone (SCSL) also established a strong judicial precedent by recognizing and defining forced marriage as a crime against humanity. However, due to external political pressures, the court was compelled to exclude sexual crime charges in one case, citing procedural technicalities. Despite this, sexual crimes were officially recognized as war crimes, crimes against humanity, and integral elements of genocide in the Sierra Leone tribunal.

These hard-won achievements culminated in the adoption of the Rome Statute (Statute of the International Criminal Court) in July 2002, which significantly expanded the legal framework for prosecuting sexual crimes. The inclusion of sexual crimes in the final draft of the Rome Statute was hailed as a historic step in combating gender-based violence.

The Rome Statute explicitly declares that "the most serious crimes of concern to the international community must not go unpunished" (Preamble and Article 1). It formally criminalizes sexual violence (Article 7) and provides a comprehensive list of sexual crimes under Article 7(1)(g) and Article 8. Additionally, Articles 54(1)(b), 36(8)(b), 44(2), 42(9), 43(6), and 68(1) of the Rome Statute establish special procedural measures for prosecuting sexual crimes and ensuring victim protection (Salehi, 2016).

Across all these cases, crimes against women—especially sexual crimes—have been legally recognized and prosecuted at the international level.

#### 4.2. *The International Charter on Women's Rights*

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of 1979, also known as the International Charter on Women's Rights, is one of numerous international legal instruments addressing women's rights and gender-based discrimination.

In line with the principles outlined in the United Nations Charter, the Universal Declaration of Human Rights, and the International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights, this treaty affirms the fundamental human rights and dignity of all individuals, regardless of gender. It recognizes the equality of men and women in political, cultural, economic, and social life as the only path to establishing a progressive international legal system based on equity and justice.

In general, CEDAW affirms human rights as universal, regardless of gender (Moradkhani, 2021).

#### 4.3. *The Universal Declaration of Human Rights*

The Universal Declaration of Human Rights (UDHR) is an international legal document adopted by the United Nations General Assembly on December 10, 1948, in Paris. It was a direct response to the atrocities of World



War II and, for the first time, recognized the inherent human rights to which all people are entitled.

Human rights, as defined by the UDHR, are inalienable rights that all individuals possess, regardless of time or place. The recognition of human dignity, equal rights, and fundamental freedoms is considered the foundation of liberty, justice, and peace in the world ("[Universal Declaration of Human Rights](#)," 2018).

Following World War II, the United Nations emerged as the highest global civil authority, directing interstate relations toward diplomacy and cooperation. On December 16, 1966, the UN General Assembly adopted two key international covenants:

1. The International Covenant on Civil and Political Rights (ICCPR)
2. The International Covenant on Economic, Social, and Cultural Rights (ICESCR)

These treaties emphasized the recognition of natural and fundamental human rights but did not explicitly address women's specific rights. Consequently, efforts intensified to compel the UN to adopt legal instruments explicitly dedicated to women's rights.

These efforts culminated on November 7, 1967, with the drafting of the Declaration on the Elimination of Discrimination Against Women. This declaration was later transformed into the legally binding Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was incorporated into international treaty law.

CEDAW was adopted on December 18, 1979, and entered into force on September 3, 1981. Its primary objective is the elimination of gender-based discrimination, with a strong emphasis on women's rights and gender equality.

#### 4.4. *The International Covenant on Civil and Political Rights (ICCPR)*

The ICCPR was adopted by the United Nations General Assembly on December 16, 1966. The covenant consists of a preamble and 53 articles, structured into six parts. Like the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the ICCPR recognizes the human rights outlined in the Universal Declaration of Human Rights (UDHR) and emphasizes the inherent dignity and inalienable equal rights of all individuals, as enshrined in the United Nations Charter.

- Article 3 of the covenant emphasizes equal rights for men and women.

- Article 7 guarantees the right to be free from torture, cruel, inhuman, and degrading treatment or punishment and prohibits slavery, servitude, and forced or compulsory labor.
- Article 23 affirms the right to freely choose and enter into marriage without coercion.
- Article 26 guarantees equality before the law and equal protection under the law.

Iran signed the ICCPR on April 4, 1968, and ratified it on May 7, 1975, thereby granting it legal validity and committing itself to its provisions ([Mehrpour, 2018](#)).

#### 4.5. *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

Under Article 6 of CEDAW, states parties are obligated to take appropriate legislative and regulatory measures to prevent and eliminate the trafficking of women and sexual exploitation and to prosecute offenders.

On March 12, 1999, coinciding with the 20th anniversary of CEDAW, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women was adopted during the 43rd session of the Commission on the Status of Women (CSW) and was presented to the United Nations General Assembly for signature, ratification, and accession in 2000.

States that ratified this protocol recognized the authority of the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) to receive and examine complaints from individuals or groups of women who had exhausted all domestic remedies.

Although CEDAW does not explicitly mention violence against women, Article 17 provides for the establishment of a committee to monitor the implementation of the convention and address gaps related to gender-based violence. The CEDAW Committee, established in 1982, consists of 23 members responsible for overseeing compliance with CEDAW provisions. Cases of violence against women are referred to this committee, which issues recommendations and legal interpretations (Report of the Office of the United Nations High Commissioner for Human Rights, 2009).

#### 4.6. *International Monitoring Mechanisms for the Protection of Women's Rights within the United Nations Framework*

The monitoring mechanisms within the United Nations human rights system regarding women's rights can be categorized into two groups (Moradkhani, 2021):

1. Charter-based UN monitoring bodies, including:
  - The Commission on the Status of Women (CSW)
  - UN Women (the United Nations Entity for Gender Equality and the Empowerment of Women)
  - The Special Rapporteur on Violence Against Women
2. Treaty-based monitoring bodies, such as:
  - The Committee on the Elimination of Discrimination Against Women (CEDAW Committee)

##### 4.6.1. *The United Nations Commission on the Status of Women (CSW)*

The CSW is an intergovernmental body within the United Nations Economic and Social Council (ECOSOC). It was established on June 21, 1946, in New York.

As one of the main UN bodies focusing on women's issues, the CSW plays a significant role in shaping policies and strategies to promote gender equality worldwide.

The mandate of the CSW was expanded in 1987 following the "Women and the Third World" Conference in Nairobi (1985). As a result, the UN Economic and Social Council assigned the CSW additional responsibilities, including:

- Promoting gender equality
- Advancing development and peace for women
- Monitoring the implementation of strategies set forth in the Nairobi Forward-Looking Strategies for the Advancement of Women (Ebadi, 2018).

The CSW also evaluates national, regional, and global progress on gender equality. Its primary function is to promote women's rights, rather than directly monitor CEDAW's implementation—a task assigned to the CEDAW Committee. However, the CSW reviews reports submitted by member states on their implementation of CEDAW and gathers information from NGOs and independent organizations.

The CSW's main objective is to promote gender equality and women's advancement. It submits proposals and reports to the UN, and in urgent cases, it takes international action to prevent or mitigate violations of women's rights. One of its notable initiatives was the adoption of the Declaration on the Elimination of Violence Against Women.

In 1967, due to the CSW's effective performance, the ECOSOC expanded its mandate to address gender equality, development, and peace and to monitor progress on women's rights at national, regional, and international levels (CSW Annual Session, 1987).

It is important to note that the evolution of CSW's agenda has led to a more specialized focus on women's issues. However, a review of CSW sessions from the past two decades suggests that many essential women's rights concerns have been overlooked, as most of its attention has been directed toward achieving gender equality rather than addressing pressing and fundamental issues. Iran has been elected as a member of the CSW three times since 2011, representing one of Asia's 11 allocated seats.

##### 4.6.2. *The Committee on the Elimination of Discrimination Against Women (CEDAW Committee)*

The CEDAW Committee was established in 1982 and consists of 32 experts elected by member states to monitor the implementation of CEDAW.

According to the convention, committee members must be individuals with high moral character and expertise in areas related to CEDAW. They are elected for four-year terms but may be re-elected. Members serve in their personal capacity, meaning they do not represent their respective governments.

The committee convenes annually for three-week sessions to review reports submitted by state parties and assess their progress in eliminating discrimination against women. It may also request information from specialized agencies and NGOs.

The committee submits annual reports through the Economic and Social Council (ECOSOC) to the UN General Assembly, and the UN Secretary-General forwards these reports to the CSW. These reports reflect the committee's activities, findings, and recommendations for improving women's rights protections (Report of the Office of the

United Nations High Commissioner for Human Rights, 2009).

#### 4.6.3. *UN Women*

UN Women is the primary UN entity responsible for gender equality and women's empowerment. It was established in 2010 as a subsidiary body of the United Nations.

The creation of UN Women was a historic step in accelerating the UN's efforts toward gender equality and women's empowerment. Four previous UN bodies working on women's issues were merged into one entity, consolidating their responsibilities under UN Women:

1. The Office of the Special Adviser on Gender Issues and Advancement of Women
2. The Division for the Advancement of Women
3. The United Nations Development Fund for Women (UNIFEM)
4. The International Research and Training Institute for the Advancement of Women

The key focus areas of UN Women include:

- Eliminating discrimination against women and girls
- Empowering women
- Achieving gender equality
- Promoting peace and security
- Enhancing women's political participation
- Combating violence against women (Khomeini, 1999).

#### 4.7. *International Organizations Active in Preventing and Combating Violence Against Women*

International organizations engaged in preventing and combating violence against women are not limited to domestic governmental and non-governmental entities. Several UN-affiliated agencies and international organizations operate in various countries, providing support for women, particularly victims of violence. The most prominent of these organizations include:

##### 4.7.1. *UNIFEM (United Nations Development Fund for Women)*

UNIFEM is committed to advancing women's rights and achieving gender equality. It was established as a special fund for the elimination of violence against women and

girls, with the aim of providing direct services to women and girls at risk or who have been victims of violence.

Another key objective of UNIFEM is to strengthen and enhance the capacity of governmental institutions to prevent sexual and gender-based violence and to protect women facing risk and victims of violence at the national level.

Due to its collaboration with other UN agencies and civil society organizations, UNIFEM plays a critical role in developing an effective and predictable financial framework to support projects and initiatives aimed at eradicating violence against women and girls (Nour Mohammadi, 2012).

##### 4.7.2. *UNICEF (United Nations Children's Fund)*

UNICEF, known as the United Nations Children's Fund, operates throughout South Asia to support the development of activist movements against gender-based violence. It actively collaborates with various partners in different countries to address domestic violence.

The organization does not implement a single uniform plan across all countries but follows a program-based approach, assisting governmental institutions in implementing their policies and action plans.

UNICEF typically operates five-year programs, coordinating its activities in each country through the respective Ministry of Foreign Affairs and delivering services via national governments (Nour Mohammadi, 2012).

##### 4.7.3. *Human Rights Watch (HRW)*

Human Rights Watch (HRW) is one of the most influential international organizations in the field of human rights advocacy. It holds special consultative status with the United Nations Economic and Social Council (ECOSOC) and works to monitor and document all forms of human rights violations, regardless of whether they involve political activists or ordinary individuals.

HRW gathers information through local activists and operates offices in various regions, including Afghanistan, which has been a hotspot for human rights violations in recent years.

HRW has published numerous reports detailing severe violations of women's and girls' rights in Afghanistan, including:

- Threats of death and intimidation
- Sexual assault and rape
- Forced marriages of young girls to elderly men

HRW also reported that more than half of Afghan women and girls imprisoned in the country were detained for so-called "moral crimes" such as zina (extramarital relations) or fleeing from home. The organization urged the Afghan government to address these issues and prosecute human rights violators (Hosseini, 2018).

#### 4.7.3.1 UNAMA (*United Nations Assistance Mission in Afghanistan*)

The UNAMA mission in human rights operates under United Nations Security Council Resolution 1974, with the mandate to:

- Monitor the status of civilians
- Coordinate efforts to ensure civilian protection
- Promote accountability
- Assist in the realization of fundamental freedoms
- Ensure compliance with national laws and international treaties to which countries are committed

UNAMA's programs focus on human rights issues, combating violence against women, and increasing women's participation in governance. The organization monitors and documents cases of violence against women and girls and oversees the implementation of Afghanistan's Law on the Elimination of Violence Against Women (EVAW).

Additionally, UNAMA collaborates with the Afghanistan Independent Human Rights Commission (AIHRC) in areas such as:

- Civilian protection
  - Violence against women
  - Unlawful detentions
  - Accountability for human rights violations
- Conclusion

Special protection for women is a fundamental principle of Islamic humanitarian law. According to Islamic teachings, safeguarding women's rights is mandatory, even in the midst of armed conflicts.

It is narrated that Prophet Muhammad (PBUH) intervened whenever he witnessed violence against women or children, holding the perpetrators accountable. Ensuring the rights of women and persons with disabilities is a crucial aspect of war ethics in Islam. Understanding women's rights in Islam and examining the prophetic tradition (Sunnah) is of great significance. The Prophet's recommendations and actions demonstrate that he prioritized preventing harm to women, children, and persons with disabilities and sought to minimize their physical and psychological suffering.

The Prophet's approach to female captives—who, according to the war customs of the time, were meant to be enslaved by the victors—further illustrates his special attention to the rights of women in conflict situations.

Sexual violence has long been a prevalent aspect of both internal and international armed conflicts. In some cases, it is used as a tactic to weaken enemy forces, while in others, it is systematically employed as a tool for ethnic cleansing.

One of the most notable instances of large-scale sexual violence occurred during the Rwandan Civil War and the Yugoslav Wars. Following these conflicts, the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) were established to prosecute these atrocities.

Subsequently, the international community and the United Nations pursued the establishment of a permanent international court with universal jurisdiction. This led to the adoption of the Rome Statute in 1998, under which sexual violence against women was formally criminalized as a war crime, crime against humanity, and component of genocide.

Based on the findings of this study, it is evident that both Islamic law and international law recognize and criminalize acts of violence against women. At the international level, penalties have been established for perpetrators of crimes against women, with the International Criminal Court (ICC) holding jurisdiction over such cases.

Similarly, in Islamic law, the Prophet Muhammad (PBUH) actively condemned and punished those who committed crimes against women. He explicitly forbade the killing and abuse of women during wartime, emphasizing their protection as a moral and legal obligation.



## Authors' Contributions

Authors contributed equally to this article.

## Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

## Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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## Declaration of Interest

The authors report no conflict of interest.

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## Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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