

The Employment of Nuclear Weapons in Islamic Governance: A Case Study of Jurisprudential Perspectives

Abstract

An Islamic government, guided by Quranic and religious teachings, may utilize military capabilities, defend Islamic territories, or counter enemy aggression. Nuclear weaponry represents one such military capability. The conditions under which its use is permissible, according to juristic opinions, form the central focus of this study. Notably, there is no consensus among early and contemporary jurists (foqaha), both Shī'a and Ṣunnī, regarding the permissibility or absolute prohibition of using or possessing such weapons, including nuclear and biological weapons. Some foqaha, citing the necessity of defense, permit the conditional use of this technology to counter and prevent threats against Muslims. Conversely, others, citing Quranic precepts and the Prophetic tradition, advocate for the absolute prohibition of using and even possessing such weapons, regardless of the intent to use them. This article delves into the divergent perspectives among jurists regarding the permissibility or prohibition of nuclear weapon use, supported by jurisprudential evidence, and examines the following research questions: First, which attitude is there more consensus on? Second, to what extent can contemporary interpretations of international humanitarian law be harmonized with classical jurisprudential fatwas addressing the ethical-legal boundaries of armed conflict? The findings reveal that while a substantial number of foqaha assert the absolute prohibition and sanctity of nuclear weapons, a minority from both traditions allow for their conditional use under specific circumstances.

Keywords

Weapons of mass destruction
Nuclear weapons
Islamic jurisprudence
Shī'a and Ṣunnī jurists
fatwā

Introduction

Qur'anic guidelines emphasize the sanctity of human life and advocate for preserving human dignity, preventing societal and generational destruction, and safeguarding places of worship. These principles compel authorities to impose restrictions on weapons and tactics that target civilians, such as poisoning water sources, burning agricultural lands and dwellings, and demolishing religious sites. In today's conditions, these restrictions find particular relevance in the prohibition of biological, chemical, and nuclear weapons because of their inherent design for indiscriminate destruction and mass casualties, with the potential for uncontrollable and widespread devastation. The use of nuclear weapons is widely condemned by legal scholars and foqaha. Nevertheless, some argue for their conditional and limited use, citing justifications such as targeting solely military objectives, adhering to the principle of distinction between combatants and non-combatants, and the necessity of defense against an adversary's nuclear arsenal

(Zuḥaylī, ١٩٤٥,١٤٣). Numerous verses within the Qur'an underscore human rights and the inviolability of life, proscribing the killing of individuals without just cause or aggression. Building upon these verses and the traditions of the Prophet Muhammad (PBUH), both Shī'a and Ṣunnī jurists in the early centuries engaged in substantive discussions within the books of *Siyar* (Islamic international law) and chapters on *Jihad* (struggle), examining weapons and methods of mass killing, including the poisoning of water sources and wells, destruction, and arson. These discussions centered on fortifications, habitations, and the use of armaments that indiscriminately target both soldiers and civilians. This research aims to explore the perspectives of contemporary foqaha on the ethical implications of employing weapons of mass destruction. This article employs a historical-narrative methodology, drawing upon historical data, Quranic exegesis, and the Sunnah (the practices and sayings of the Prophet Muhammad, (PBUH)). It also incorporates a comparative analysis of arguments presented by classical Ṣunnī and Shī'a jurists alongside those of contemporary scholars concerning the permissibility or prohibition of weapons of mass destruction. This comparative approach facilitates a critical examination of the jurisprudential debates surrounding the use of such weapons in the modern era. This study employs a dualism analytical framework to assess jurisprudential perspectives on the ethical-legal status of weapons of mass destruction. First, we analyze the doctrinal juristic arguments advanced by scholars advocating for the absolute prohibition of WMDs, grounded in principles of Absolute Prohibition. Second, we critically evaluate the countervailing position endorsing conditional use of WMDs, often rationalized through appeals to military necessity or retributive justice and use under strictly defined circumstances, typically contingent on compliance with thresholds of distinction and necessity in Islamic jurisprudence ethical-legal (fiqh al-jihād).

Legal and Jurisprudential Background: It is crucial to acknowledge that the customary rules governing armed conflicts constitute the most fundamental sources of the law of war, also known as the law of armed conflict. These rules are codified, in part, within the four Geneva Conventions of August 12, 1949. The first convention addresses the improvement of the condition of wounded, sick, and shipwrecked members of armed forces in the field. The second convention concerns the condition of wounded, sick, and shipwrecked members of armed forces at sea (Darcy, 2014,115). The Third Convention focuses on the treatment of prisoners of war. The Fourth Convention protects civilians during wartime. Furthermore, the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, dated (May 14, 1954), addresses the protection of cultural heritage during wartime (Bennett, 2006). Additional treaties supplementing the four Geneva Conventions include the Convention on the

Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques 1 (ENMOD), adopted (May 18, 1977), (UNGA Res. 31,72), and The Protocol I (1977) to the Geneva Conventions of (August 12, 1949), concerning the protection of victims of international armed conflicts, approved (June 8, 1977) (Adam & Guelff, 2000, 66-77).

The United Nations, through the convening of the Diplomatic Conference (1974–1977), aimed to review and regulate the rules of war, seeking to mitigate the destructive and harmful effects of war by prohibiting war crimes. Regarding the jurisprudential foundations for the absolute prohibition of weapons of mass destruction, especially nuclear weapons, articles have been written that focuses exclusively on absolute prohibition arguments or have paid less attention to the historical and jurisprudential background of the subject. In his book, *Al-Fatāwā al-Nawawīyya: al-Dīn wa al-Siyāsa fī Istirāṭijiyāt al-Nawawī al-Īrānī* (٢٠١٨), *Fawzī Darvīsh* discusses the fatwa and the opinion of the leader of the Islamic Republic, explaining its political-jurisprudential foundations regarding the prohibition of WMD development and use.

Tamīmī (٢٠١٧) analyzes the foreign policy of the Islamic Republic of Iran in response to perceived nuclear threats. He posits that, consistent with the stated position of the Supreme Leader, Iran's Nuclear program primarily pursues peaceful objectives and does not aim for the acquisition of lowercase. *Zuhailī's* book, specifically *Āthār al-Ḥarb fī al-Fiqh al-Islāmī* (١٩٦٥) and *Qadāyā al-Fiqh wa al-Fikr al-Mu'āsir* (١٩٩٧),^١ provide comprehensive examinations of the Islamic jurisprudence concerning the laws of war, including discussions on the justifications for the use of weapons of mass destruction. *Muḥaqqiq Dāmād, Muṣṭafā* (٢٠٠٤) offers a detailed exploration of international humanitarian law from an Islamic perspective, assessing its compatibility with Islamic legal principles (uṣūl al-fiqh). Furthermore, *al-Ḥarb wa al-Quyūd al-Akhlāqīyya*^٢ compares Islamic ethics with international humanitarian law, offering in-depth analyses of the alignment between these two legal systems. In addition to these monographs, scholarly articles have also addressed this subject. Sulaymānī and Ḥusaynī (١٩٧٩) examined the Islamic legal arguments concerning the permissibility of developing and employing nuclear weapons within a deterrence

^١. Tamimi, Ahmad. (2017). *Iranian Foreign Policy between Constants and Variables*. Baghdad: Al-Manhal.

^٢. Zuhaili, Wahba. (1965). *Athar al-Harb fi Fiqh al-Islami*. Beirut: Dar al-Fikr.

^٣. Zuhaili (1997). *Qadaya al-Fiqh wal-Fikr al-Mu'asirah*. Beirut: Dar al-Fikr.

^٤. Mohaqeq Damad. (2004), *Protection of Individuals in Times of Armed Conflict under the International And Islamic Law*, New York

^٥. Majma' al-Mu'allifin. (2018). *Al-Harb wa Quyudha al-Akhlaqiyah*. Markaz al-Hadarat li-Tanmiyat al-Fikr al-Islami.

^٦. Soleimani, R., & Hosseini, S. F. (١٩٧٩). "Jurisprudential Proofs of the Sanctity of Making and Using Nuclear Weapons in the Deterrence Strategy of Islam." *Political and International Approaches*, (67),

strategy. Conversely, *Ehsānīfar* (۲۰۱۶) argues that while Islamic warfare is subject to stringent ethical and procedural constraints, the use of nuclear weapons may be permissible in reciprocal situations. However, *Qorbāniyān* (۲۰۱۳), drawing upon the Quran and Sunnah, critiques the jurisprudential basis for conditional use, asserting an absolute prohibition (*tahrīm mutlaq*) on nuclear weapons. *Eynī* and *Hekmat nia* (۲۰۱۸) evaluated the prohibition of nuclear weapons, particularly the jurisprudential and political arguments presented by the Supreme Leader concerning humanitarian rights. *Hannān*, *Alavī*, and *Tawāghī* (2019) revisited the jurisprudential foundations for the permissibility and prohibition of nuclear weapons, attempting to elucidate permissibility rationales which they suggest is sometimes justified by reference to specific Quranic verses."^{۱۱}

These studies, in their collective endeavor to address the permissibility of weapons of mass destruction, have consistently challenged their legitimacy, emphasizing Islam's ethical restraints on warfare. Notably, the prevailing methodological approach within this body of research is predominantly jurisprudential, focusing on the prohibition of the use and proliferation of such weapons, particularly indiscriminate means. However, comparatively less attention devoted to", narrative, and jurisprudential contexts analyses that adopt an analytical perspectives. The issue, nonetheless, remains a subject of ongoing scholarly discourse.

1. Jurisprudential Perspectives on the Permissibility and Prohibition of Nuclear and Biological Weapons

The jurisprudential discourse surrounding the permissibility or absolute prohibition of nuclear and biological weapons, each supported by specific evidentiary arguments.

1-Absolute Prohibition, some scholars advocate for an absolute ,based on: Quranic sanctity of life (Quran. 5:32), ḥadīth prohibiting indiscriminate weapons, and

^{۱۰}. Ehsanifar, A. (2016). "Jurisprudential Prohibition of Using Nuclear Weapons in Reciprocal Situations." *Islamic Law*, (54).

^{۱۱}. Qorbaniyan, N. (2013). "Absolute Prohibition of the Use of Nuclear Weapons." *Islamic Law*, 10(39).

^{۱۲}. Eynī and Hekmatnia, M. (۲۰۱۸). "Evaluation of the Ban on the Use of Nuclear Weapons with an Emphasis on the Jurisprudential and Political Arguments of the Supreme Leader Regarding Humanitarian Rights." *Human Rights Research Journal*, N.54.67-93

^{۱۳}. Hannan, H, Alavi, & Tawaghi. (2019). "Re-examination of the Jurisprudential Foundations of the Sanctity and Prohibition of the Production and Use of Nuclear Weapons." *Islamic Jurisprudence and Law Studies Quarterly*, 12(22).

^{۱۴}. "And prepare against them whatever you can of power and of steeds of Prepare against them" (Qur'ān ۸:۶۰).

classical siyar rulings. Advocates: Majority of contemporary foqaha (e.g., Qorbāniyān, 2013; al-Zuhailī, 1997).

2-Permits possession only as deterrence, explicitly banning offensive use. others posit a conditional permissibility and the acquisition of such weapons solely for deterrent purposes, explicitly rejecting their offensive utilization. Basis: Necessity (ḍarūra) and Prepare against them whatever force (Quran, 8:60). However, since nuclear weapons did not exist at the time of the revelation of the Qur'an and the life of Prophet Mohammed, the seventh century, no rule explicitly prohibits or authorizes their use, and such will proceed by analogy (*qiyās*), a secondary source of Islamic law.

2.1. Absolute Prohibition of the Use and Possession of Nuclear Weapons

Islamic jurists hold two primary doctrinal positions regarding the ethical and legal implications of nuclear weapons:

1. Absolute prohibition against production and deployment.
2. Restricted permission under defined circumstances contingent upon theological-moral criteria.

This section analyzes the first perspective the argument for an unconditional ban on nuclear weapons. A significant segment of Islamic jurists advocates for the absolute prohibition of the acquisition and use of weapons of mass destruction, grounding their arguments in Quranic exegesis and established jurisprudential principles. This perspective, which brooks no conditional exceptions, is exemplified by the *fatwa* issued by *Ayatollah Khamenei* in 2003, wherein the production of weapons of mass destruction, in any form, was declared forbidden (*ḥarām*). In his pronouncements, he stated, “*We are not pursuing nuclear weapons. I have repeatedly emphasized that our nuclear weapon is our nation, our youth. We do not need nuclear weapons. A nation with such a multitude of believing youth and a unified populace does not require nuclear armaments. The production, stockpiling, and utilization of nuclear weapons are all problematic. We have articulated our clear religious opinion on this matter, and it is widely known*”. (Darvīsh, 2018, 8).

Based on this *fatwa*, the Islamic Republic of Iran officially declared its abstention from pursuing nuclear weapons, citing the Islamic prohibition against weapons of mass destruction In his address to International Disarmament Conference and Non-Proliferation in (April 2010), officially registered with the United Nations, the Supreme Leader reiterated this position, attributing it to religious convictions. His

evidence and citations have Quranic foundations. The Quran indeed emphasizes the sanctity of life and condemns unjust killing and destruction, which some interpret as a foundation for the concept of "absolute sanctity." Key verses and principles include: *«And when he goes away, he strives throughout the land to cause corruption therein and destroy crops and livestock . (Quran,2:205), And “Allah does not like corruption”.* *"Whoever kills a soul... it is as if he had slain mankind entirely."* (Quran 5:32). *"Do not kill the soul which Allah has made sacred, except by right"* (Quran 17:33). Therefore, from a religious standpoint, we oppose the development and use of nuclear weapons" (Darvish, n.d,9). Other prominent authorities and jurists, including *Makārim Shīrāzī, Javādī Āmolī, and Ja'far Subḥānī*, based on these same Quranic evidences, consider the use of nuclear weapons to be forbidden (Na'imī, 2017, 387). Ayatollah *Alavī Gurgānī*, along with other *marāji' taqlīd*, maintains that the use of atomic weapons in warfare is categorically *ḥarām* (forbidden). He argues that these weapons inflict enduring environmental damage and have destructive effects that persist for generations (Yusuf Vand, 2013, 120). He asserted, *'This religious edict (fatwa) is among the fundamental tenets of Islam and aligns with the explicit textual injunctions of the Quran.* He emphasized that oppression is not only jurisprudentially prohibited but is also deemed forbidden and morally reprehensible by all rational thinkers and scholars. It was explicitly stated: *What greater injustice exists than committing an act that annihilates vast numbers of humans and other living beings? Nuclear weapons, beyond their catastrophic social consequences, inflict severe ecological disruption upon the natural world. Their destructive effects persist for decades, manifesting even in subsequent generations.* (<http://rasanews.ir/N.Site/FullStory/News>). He added: *A person who holds the belief in the Hereafter issues a religious edict (fatwa) declaring nuclear weapons forbidden (haram), asserting that there is no justification for the killing and incineration of innocent individuals.*"(<https://www.isna.ir/news>). Also, Ayatollah Sobhani: *“Considering the Islamic principles about mankind and his dignity, the use of nuclear weapons is forbidden, and it cannot be used even for deterrence”.* Her fatwa is also based on the Sunnah and sirah of the Messenger of God (PBUH), According to the Islamic rules concerning Jihad, it is not permitted to use unlawful means and methods of warfare such as cutting off water from the enemy, poisoning and polluting their water, disturbing their elderly and monks, and following those who are deserting..." Also, according by Ayatollah Mohsen Faghihi: *“The prohibition of production, Nuclear stockpiling and use of the WMD is considered as a primary edict of Islam and does not need any deep arguments, the fatwa of the Leader being the declaration of God's real edict stipulated in the Holy verses and the ḥadīths"*(Alidoost, 2014).

This ruling is rooted in classical jurisprudential texts, and the Sirah books, which document that the Prophet (PBUH) explicitly forbade poisoning or contaminating, and any unconventional weapon that inflicts disproportionate casualties upon enemy ranks, such as poisoning enemy water sources, such acts as impermissible (*ḥarām*). Therefore, parallels between the use of poison and other indiscriminate weapons in the time of the Prophet Muhammad (PBUH) and the use of modern nuclear and biological weapons. This analogy underscores the consistent prohibition against targeting civilians. For example, during the Battle of *Khaybar*, the Prophet prohibited the cutting off of water supplies to besieged fortresses and the contamination of their wells (Kulaynī, 2009, 5, 28; Ḥurr Amely, 1988, 11,46). Also, said “*In the name of God and based on the divine religion, free the captives and do not kill children and women, do not indulge in increasing your war spoils, be kind and do goodness because Allah loves them*” (Ibn Abī Shayba, 1988, 654). Furthermore, it is narrated that *Alī ibn Abī Ṭālib* (AS) stated, “*The Messenger of God forbade us from dispersing poison in the land of the polytheists*” (Ḥurr -e ‘Āmilī,, *ibid*). Building upon these precedents, Islamic jurists, including *Ḥurr-e ‘Āmilī*, (1988,15,16), *Allamah Helli* (1993,103), *Sheikh Ṭūsī* (1995, 314), *Ibn Idrīs al-Hillī*(1989.2, 7), *Muḥaqqiq al-Karakī* (3,385), and *Shahīd al-Awwal* (‘Āmilī,, 2,32), have consistently maintained this prohibition. Tusi, by exclusively referencing relevant Ḥadīths, determines the ruling governing the case through rigorous analysis of the textual evidence (Ḥadīth) rather than abstract theological argumentation. In articulating the legal ruling—consistent with the methodology of the Sheikh in this work, which prioritizes issuing fatwas grounded in the explicit wording of Ḥadīths, he states: “*Verily, the poisoning of dwellings inhabited by polytheists (mushrikīn) is prohibited*”(Tusi,1979, 51) This consensus among jurists unequivocally prohibits and condemns the use of weapons of mass destruction, including the contamination of enemy water or food supplies with poison or cholera, or any other method that destroys non-combatants, such as women and children, as these acts are deemed haram (Ṣan‘ānī, 1927, 7, 657). It is narrated that the Prophet Muhammad (peace be upon him) instructed his military expeditions, “*Do not burn palm trees or crops*” (Horr-e ‘Āmilī,, 1988,15,59). Furthermore, Shī‘a jurists, including *Muḥaqqiq-e Thānī*, consider the use of incendiary weapons and the burning of trees, crops, animals, and non-combatants to be haram (Ḥurr -e ‘Āmilī,, 1954,66). Ibn Adriss Helly states: “*killing the atheists is permitted, but that must be distinguished between fighters and civilians, also the use of poison is not acceptable, because poisoning in their dwelling is forbidden*”. (Ibn Idris al-Hilli, 1988, 2,7). Sheikh Ṭūsī argues that “*an Imām ‘Ādil should not employ fire or catapults against the bāghī (rebels), as non-combatants may be present within their ranks. He permits the use of catapults and incendiary weapons only under exigent circumstances, such as to repel imminent enemy threats, for self-defense, or when surrounded and other means of defense are*

unavailable (Ṭūsī ,1979, 334,293). *Karakī* says: “If it is possible to be the winner without resorting to poisoning, use of poison in atheist realms is unlawful” (Karakī , 1993, 385). *Shahid-e Thani* believes that: “Based on better comment, poisoning is prohibited, poisoning for killing innocent people is forbidden”. (Shahīd-e Thānī, 1992, 24). Given the devastating environmental consequences of chemical weapons, including the destruction of ecosystems and the burning of agricultural lands, contemporary jurists have prohibited their use, drawing upon the precedents established by classical jurists. These precedents include the injunction, “Do not kill women, children, or elderly sheikhs, nor harm those with whom you have a peace treaty, for such actions constitute transgression.” Furthermore, the Prophet Muhammad (PBUH) instructed his military commanders, “Conquer in the name of God, with the blessing of the Messenger of God. Do not kill an elderly man, a child, or a young man. Do not transgress; gather your spoils, make amends, and do good. Indeed, God loves those who do good” (Abī Dāwūd, 2009, 3,37). These instances exemplify the prohibition of transgression. Shī‘a commentators and jurists, including *Allāma Ṭabāṭabā’ī* and *Nasir Makārim Shīrāzī*, consider the expansion of military operations into residential areas, beyond designated battlefields, and the involvement of non-combatants and civilians as acts of transgression. Furthermore, causing damage to agricultural lands and vegetation, as well as contaminating the enemy's water supply, is explicitly prohibited (Makārim Shīrāzī, 1989,2,19; Tabataba'i,1985,2,90). This effectively extends to the prohibition of chemical weapons.

The Shī‘a Scholars, based on the *I’tidā’* verse and other valid Ḥadīthss, believe that the use of weapons leading to mass destruction is prohibited and the principle of distinction and proportionality must be considered; nevertheless, WMDs absolutely cannot satisfy comply with such principles and lead to irreparable damage to nature and humanity. *Allāma Ṭabāṭabā’ī*, in *Tafsīr al-Mīzān*, explains, “The word *al-Ta‘addu* derives from the infinitive *I’tidā’*, signifying exceeding limits. For instance, the phrase *I’tidu* indicates that an individual overstepped their boundaries. The prohibition of aggression is absolute.(Tabataba'i,1985,2,90).*Al-I’tidā’*, *al-Ta‘addī*, and *al-‘Udwān* denote transgression and injustice. *Al-‘Adā’* signifies injustice and exceeding proper limits. Allāh’s injunction (Qur’an 2:190): ‘Fight in the way of Allāh those who fight you, but do not transgress “*wa-lā ta’tadū*. Sheikh Mohammad Hasan Najafi believes that the sanctity of the months of Haram can be violated due to aggression.” *Fighting during the sacred months is not permissible, unless the enemy initiates war or belongs to those who hold no sanctity for the sacred months. The permissibility of fighting in these two excepted cases has also been argued based on the “Āyat al-I’tidā’* (Njafi,n.d,21,32). Therefore, this absolute prohibition encompasses any action that can be construed as aggression, such as

unprovoked military engagement, preemptive strikes without legitimate justification, targeting non-combatants, and initiating armed conflict without due notice, among other similar actions mentioned in the Prophetic Sunna. *Ayatullāh al-Ṣadr*, in addition to the fatwa on the prohibition of poisoning the atheist dwellings, goes one step further and expresses: “*even though in Sokoni's Ḥadīths the title of poison has been utilized, but the poison undoubtedly does not have subjectivity, rather in terms of criterion includes any unconventional weapon*”. (Sadr,1999,384). *Ayatollah Khoyi* believes that: “*Based on the Prophet's prohibition on poisoning the polytheists' realms, that is unlawful*”. (Jaber Seyvanizad,2017,3, 1,14).

Ṣunnī scholars, as with their Shī‘a counterparts, have issued definitive fatwas prohibiting the use of weapons of mass destruction (WMDs) and any military action that expands warfare into civilian-populated areas, citing explicit Qur’anic injunctions and authenticated Ḥadīths literature. These rulings unequivocally forbid the indiscriminate devastation of civilian infrastructure, including the destruction of homes, trees, agricultural lands, livestock, and natural environments—acts deemed incompatible with Islamic principles of proportionality, civilian immunity, and environmental preservation. Below are representative examples of such scholarly consensus (*Ijmā‘*). Among Ṣunnī scholars, *Wahba al-Zuhaylī*, considers the initiation of hostilities, the killing of Muslims, the targeting of civilians such as women, children, and the elderly, the destruction of dwellings and agricultural lands, and the felling and burning of trees and crops as acts of transgression that incur divine wrath (Zuhaylī, 1997, 2, 179). *Sheikh Mahmoud Shaltout* (former Mufti of Al-Azhar) said, “*The use of nuclear and chemical weapons is prohibited (haram), as they indiscriminately kill both the innocent and the guilty, perpetrate genocide, and corrupt the earth.*” Also, *Sheikh Ahmad Tabib* (Shaikh Alazhar) said, “*Islam prohibits the use of any weapon that causes widespread destruction or subjects victims to gradual torture. Even in warfare, the torture of enemies is impermissible.*” *Sheikh Abdulaziz bin Baz* (Former Grand Mufti of Saudi Arabia) in the treatise “*A Warning to Muslims Against Nuclear Weapons*” Said, “*Nuclear weapons do not distinguish between combatants and children; this constitutes a betrayal of both divine law (sharī‘a) and human legislation.*” *Sheikh Salih al-Fawzan* (Member of the Council of Senior Scholars) *Emphasis on the Prohibition of Chemical Weapons*: “*Even if Muslims were to employ chemical weapons against disbelievers (kuffār), it would remain religiously impermissible (haram), as such acts are tantamount to treachery.*” *Sheikh Nuh Al-Qudah* (Indonesian Scholar) Statement at the “*Islam and World Peace*” Conference (2019): “*Nuclear armament is religiously impermissible (ḥarām) even for deterrence, as the risk of accidental detonation poses an existential threat to humanity.*” (<https://elm-andish.ir>).

Yūsuf al-Qaraḍāwī, a prominent figure associated with al-Azhar, asserts the prohibition of using weapons of mass destruction that indiscriminately kill thousands or millions of combatants and civilians, and devastate human life (Qaraḍāwī, ٢٠١٥, ١, ٥٩). Similarly, *Khalīl al-Mālikī*, a contemporary Ṣunnī jurist, prohibits the use of chemical and biological weapons in Islam, arguing that combatants are forbidden from employing weapons that inflict excessive harm beyond military necessity (*al-ḍarar al-fāḥish*). Such weapons cause extreme suffering and lead to the indiscriminate destruction of life (Majmu'at al-Mu'allifin, 2018, 346-347). According to *Al Azhari* the other Ṣunnī scholars, *under the Islamic jurisprudence, not killing atheist women and children after Muslim domination is a well-established rule, especially when there a Nabavi Hadīths in this respect*. There an authentic Ḥadīths from the holy Prophet proscribing killing women and children; accordingly, that is forbidden under Islam. (Seyvanizad, ٢٠١٧, ٣, ١٠, ١٢-١٦). These jurists contend that the use of nuclear weapons contravenes the principles of *jihād*, exceeding the bounds of justice, piety, and humanitarian considerations (*al-'adl, al-taqwā, wa-l-maqāṣid al-insāniyya*). They argue that such weapons foster hatred towards Islam, equating an Islamic government with a *tāghūt* regime in the perpetration of immoral and inhumane acts. Furthermore, they emphasize the inherent cruelty and torturous nature of nuclear weapons, citing this as a primary reason for their prohibition (Ehsanifar, 2016, 81-110).

The arguments advanced by this group of Ṣunnī jurists are rooted not only in Quranic foundations but also in rational principles. Furthermore, reason (*'aql*) is itself acknowledged as a legitimate source for deriving the principles of jurisprudence. The abundance of cited fatwas from both Shī'a and Ṣunnī scholars demonstrates a significant jurisprudential consensus (*Ijmaa*) on the religious impermissibility of utilizing nuclear weapons.

٢.١. Conditional Permissibility of Nuclear Weapon Possession and Use

Most of jurists and scholars of Ṣunnī thought argue for the conditional permissibility of possessing and utilizing certain weapons, based on specific evidentiary grounds. They contend that the acquisition of such weapons is justifiable for defensive purposes or the development of expertise in nuclear technologies. According to Ṣunnī scholar *Abuzohrah*, Islamic jurisprudence permits the retaliatory use of nuclear weapons against an enemy that first deploys them against Muslim forces, a position endorsed by the majority of jurists (*fuqahā*). This ruling derives from Islam's realistic approach to warfare, particularly the principle of reciprocity, which mandates proportional response: if the enemy employs nuclear weapons, Muslims may retaliate with equivalent force—"violence met with violence, destruction with

reciprocal destruction." They believe this doctrine is grounded in explicit Qur'anic directives, traditions of the *Ṣaḥābah*, and rational jurisprudence, serving the objective of deterring aggression through measured retribution. (Abu zohrah, 1995, 44) However, they emphasize that these weapons should only be employed as a retaliatory measure against enemy aggression, to safeguard the honor and dignity of Islam and Muslims. Furthermore, they propose that these weapons can serve as a deterrent against potential threats. Their argument rests on the premise that acquiring knowledge of advanced weaponry is a logical necessity. This knowledge is deemed essential for understanding the functionality and effectiveness of such weapons, as well as the associated technologies. They cite the following verse from the Quran as supporting evidence: "And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of Allah and your enemy..." (Quran 8:60). They interpret this verse as obligating the acquisition of knowledge pertaining to all new weapons, including their utilization and defensive applications, for those engaged in *jihad* in the path of God. The term "power" (*quwwah*) in this verse is considered indefinite and general, encompassing the preparation of all forces and military equipment. They point to the introduction of the catapult as an example of a novel weapon unfamiliar to the Arabs at the time. (Ibn Mar'ī al-Juḥanī, 2002, 2, 412). Wahba al-Zuḥaylī posits that the use of nuclear weapons is permissible under two conditions: firstly, as a countermeasure against an enemy's potential use of such weapons against Muslims, serving as a deterrent; and secondly, when absolutely necessary, provided that civilians are not targeted (Zuḥaylī, 1981, 48). It is crucial to note that, according to this perspective, any use of such weapons must adhere to the principles outlined in the following verses: "So whoever has assaulted you, then assault him in the same way that he has assaulted you. And fear Allah, and know that Allah is with those who fear Him" (Quran 2:194).

Al-Shawkānī, the other *Ṣunnī* scholar, argues that God commanded the killing of polytheists without specifying the means, thus permitting any method, including shooting, swordplay, burning, destruction, or throwing from heights (Shawkānī, n.d, ٢٤١٤). However, these scholars, citing Quranic verses, emphasize that the fundamental principle in Islam is the preservation of life, the prevention of corruption on earth, and the protection of agriculture and future generations. The institution of *jihad* in the path of God is limited to the elimination of oppression and the prevention of corruption. Warfare against combatants is permissible only after a formal invitation to Islam. Furthermore, the killing of non-combatants, such as women, children, the elderly, monks, and similar individuals, is prohibited unless they actively participate in hostilities. Therefore, the use of nuclear weapons against an enemy is permissible only when necessary, to overcome an enemy or repel an

imminent threat against Muslims, or conditionally, for defense and retaliation (qisās) (al-Shawkānī, n.d 2.413).

Based on these theoretical frameworks, the conditional permissibility of nuclear weapon use is justified by arguing that the user lacks direct intent to cause mass casualties and destruction. The arguments derived from these theories, particularly regarding the separation of intention and action, have been employed to rationalize the possession and potential use of nuclear weapons (Hekmatnia & Ehsanifar, 2017,67-93). The Islamic Jurisprudence Council of the Muslim World League has issued a ruling concerning newly invented devices and tools, stipulating that all new technologies acquired through divine knowledge should be utilized exclusively for *sharia*-compliant and obligatory purposes. Adhering to the principle of “limiting actions to the obligatory,” the acquisition of such weapons for defensive purposes is deemed permissible and even desirable (Majma‘ al-Fiqh al-Islāmī , 2009, 10,415).

Furthermore, proponents of this view argue that while the production, acquisition, and deployment of weapons of mass destruction are generally considered impermissible due to their indiscriminate harm to humans, flora and fauna, the possession of such weapons by adversarial states, such as Israel, necessitates a deterrent capability for Islamic nations. They advocate for the acquisition of these weapons not for offensive deployment, but as a strategic deterrent (Tayyar, 2010,13,84). Contemporary Muslim jurists, including *Muhammad bin Nasir al-Ja‘wān*, *Aḥmad Nūr*, and *Muḥammad Khayr Ḥaykal* , have argued that Muslim leaders may employ weapons of mass destruction to counter enemy threats. Scholars like *Mohamed Mokbel Mahmoud Elbakry*, drawing upon Quranic verse (2:195), even posit that abstaining from the use of a weapon employed by an adversary could be construed as self-destruction, which is prohibited by the verse.(Majma-al -Islami alfeqhi, 2009, 10/ 415).

Other Ṣunnī jurists argue that it is impermissible to enter into agreements that restrict Muslims from developing, acquiring, or utilizing strategic weapons, including aircraft, fighter jets, submarines, long-range missiles, armored vehicles, and tanks. They contend that the use of artillery and all forms of military weaponry, as well as the conclusion of such restrictive agreements, contravenes the objectives of *sharia* and divine injunctions. Those who sign or mandate such agreements are considered to have committed grave sins. Given that weapons of mass destruction are inherently instruments of corruption on earth, global powers are obligated to abstain from their development and deployment, avoiding any dual-standard policies. The use of nuclear weapons, in particular, is deemed impermissible, constituting an act of corruption that is condemned by God. Even their use against

military targets is prohibited, except as a retaliatory measure against an enemy's prior use (Murad, 2015, 1, 293).

While classical jurists base their arguments for the prohibition of weapons of mass destruction on the *Sunnah* and precedents from the Prophet Muḥammad's (peace be upon him) life, particularly the prohibition of poison use against enemies, a crucial question remains: Had non-believers employed poison against Muslims during the Prophet's time, would he have maintained this absolute prohibition, or would he have permitted its retaliatory use, citing the Quranic verse on *I'tidā'* (reciprocity)? This verse states, "And whoever transgresses against you, then transgress likewise against him, but fear Allah" (Quran 2:194). This implies that retaliatory use, under conditions of enemy aggression, may not be categorically prohibited. Furthermore, if a comprehensive international treaty applicable to all nations without exception prohibited the possession of weapons of mass destruction, adherence to such a treaty would be logical to prevent global corruption. However, based on the principle of preventing non-believer dominance over Muslims, some argue for the conditional permissibility of Muslim possession of such weapons. Additionally, they bolster their position by citing the views of several prominent jurists who have deemed it permissible to employ tactics analogous to modern weapons of mass destruction. These tactics include hurling venomous creatures and insects at enemy forces, as well as contaminating enemy food and water supplies with poison (Māwardī, 2009, 184).

Shināwī argues that all Arab and Islamic nations should arm themselves with advanced weaponry to preserve their dignity and pride, citing the perceived humiliation of the Islamic world as evidence of its technological отсталость. He contends that while adversaries have amassed sophisticated tools to exploit Muslim vulnerabilities, the Islamic world lacks comparable armaments. *Sheikh Alī Abū al-Ḥasan*, head of the *fatwa* committee at *Al-Azhar al-Sharīf*, concurs, advocating for Islamic states to pursue the development of both nuclear and conventional weapons as a deterrent against potential aggression. He asserts that recognizing and defending against enemies is a religious imperative, necessitating that Muslims possess weapons superior to those of their adversaries, a position supported by various jurists. Consequently, he argues that the acquisition of modern weaponry, including nuclear capabilities, is a legal obligation for Islamic nations (Raisi, 2020). Furthermore, *Muḥammad Sa'īd Ramaḍān al-Būṭī* reinforces this perspective by referencing the aforementioned Quranic verse, thereby sanctioning the production of weapons of mass destruction to ensure parity in military strength between Muslims and their adversaries (ibid). Another Ṣunnī jurist argues for the deployment of such armaments as follows: poisoning as a wartime tactic (using poisoned

projectiles, water contamination, or biological vectors like scorpions/snakes). It classifies these as indiscriminate weapons due to their high risk of killing non-combatants (women, children). Consequently, classical juridical opinions permitting their use imposed strict conditions: High probability non-combatants avoid exposure. The method must decisively end the war with minimal cost. The poison must not be immediately lethal; its purpose is to weaken the enemy to force surrender, followed by obligatory treatment.(Abdulhalim Mohammad,2015,15,201)

Furthermore, Certain Ṣunnī scholars, citing Verse five of *Sūrat al-Hashr* and the historical account of the Prophet burning and cutting down the date palms of the *Banū al-Naḍīr*, maintain the position that such actions are religiously permissible under specific conditions. The use of the trebuchet (*Manjiniq*) was considered akin to poisoning or incendiary tactics in warfare, as conditionally permissible under classical Islamic jurisprudence. This permissibility is strictly contingent upon military necessity, wherein victory must be otherwise unattainable without enduring grave difficulty. If viable alternatives exist, such methods are prohibited due to their inherent risk of killing non-combatants (including women, children, and Muslims residing among the enemy). This exception under necessity is grounded in the precedent of the Prophet Muhammad’s command to burn enemy fortresses.(Ibid)

While the prohibition and sanctity of using weapons of mass destruction, including nuclear weapons, represent a consensus within *Imāmī* jurisprudence, certain emergency circumstances may, according to some interpretations, justify their use. Among Shī’a jurists, only *Muḥammad Taqī Miṣbāḥ Yazdī* has declared the possession of nuclear weapons permissible and even advocated for their acquisition (Nūrī al-Nu‘mī, 2017,378).

Conversely, *Nāṣir Qurbānīyān*, a Shiite lawyer,s critiques the Quranic and jurisprudential arguments presented by proponents of conditional use, asserting that the Quran and *Sunnah* clearly establish an absolute prohibition against nuclear weapons. He further argues that the principles of rationality, justice, and humanitarianism are fundamentally incompatible with the use of weapons that epitomize aggression, violence, and corruption. He maintains that the spirit of international law and the foundational principles of human rights categorically preclude the use of such weapons under any circumstances. Qurbānīyān criticizes jurists who permit the use of nuclear weapons under specific conditions, emphasizing their immense destructive potential and long-term ecological damage extending suffering to future generations. He challenges the notion that a specific justification is required to prohibit their use in ordinary circumstances, questioning whether in the absence of such justification, their permissibility should be assumed.

He argues that in a world where human dignity and intrinsic value are paramount, such propositions are untenable (Qurbānīyān , 2013,102).

In support of the arguments presented by the aforementioned expert in Islamic international law, it is crucial to distinguish between the limited harm inflicted by such poisonous creatures on a restricted number of enemy combatants and the indiscriminate mass destruction caused by chemical and biological weapons across vast territories. The latter this Weapon does not differentiate between military and civilian populations, resulting in widespread casualties, the destruction of flora and fauna, and long-lasting environmental damage that persists for generations. This distinction is paramount. Here, the separation of intention and action becomes a critical consideration for proponents of conditional permissibility. The theoretical underpinnings of this concept can be traced to Islamic legal texts, specifically through the doctrine of “separation of intention and action” in the context of weapon usage and large-scale lethal attacks.

Conclusion

Contemporary jurists exhibit divergent views on the permissibility or prohibition of nuclear weapon use, based on varying interpretations of Quranic verses and the Sunnah of the Prophet Muhammad (peace be upon him). Both groups, those advocating for absolute prohibition and those supporting conditional permissibility, have formulated their fatawa based on these differing interpretations. An analysis of these juristic opinions reveals that a majority of Shī‘a and Ṣunnī scholars, drawing parallels with the Prophet Muhammad's (peace be upon him) prohibition of poison use, water contamination, crop burning, and the targeting of civilians, have extended this prohibition to encompass modern chemical weapons. Conversely, a minority, citing Quranic verse 8:60 “*And prepare against them whatever you are able of power and of steeds of war...*” and the strategic necessity of countering enemy arsenals, argue for the conditional permissibility of acquiring, understanding, and utilizing all forms of weaponry including nuclear arms. They stipulate that such acquisition and use must be limited to defensive purposes or retaliatory measures, and must exclude the targeting of civilian populations. Given the transboundary and destructive nature of weapons of mass destruction, there is an increasing need for international dialogue to reach comprehensive and universal agreements on the prohibition of the production, stockpiling, and use of these weapons. Emphasis is placed on the importance of adhering to international treaties and striving to establish effective mechanisms for monitoring their implementation. Beyond jurisprudential debates, it is essential to consider the ethical and humanitarian dimensions of using weapons of mass destruction. Emphasis is placed on the high value of human life

and the necessity of abstaining from any action that leads to the killing of innocents and the destruction of the environment. The necessity of avoiding double standards in the field of weapons of mass destruction and taking practical action to prohibit the production and use of these weapons globally must also be emphasized. Given the discussions on the separation of intention and action, it is necessary to evaluate both the intention of the users and the consequences of the action in the use of weapons of mass destruction.

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