

Reconciling Maṣlaḥah and the Rule of Distinction in the Yemen Conflict

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Abstract

The prevailing discourse on armed conflict frequently asserts that the difficulty in safeguarding civilians does not arise from an absence of legal norms. Instead, it reflects the persistent failure of both state and non-state actors to comply with existing regulations, particularly those embedded in International Humanitarian Law (IHL). A closer examination, however, reveals that such non-compliance is often enabled by the strategic exploitation of ambiguities and structural weaknesses within the legal framework itself, regardless of the normative authority or humanitarian values these laws embody. The effectiveness of civilian-protection regimes therefore depends not only on the existence of legal provisions but also on their robust promotion, contextual legitimation, and implementation mechanisms that meaningfully engage and protect the intended beneficiaries. Against this backdrop, the present study conducts an in-depth exploration of the intersection between al-Maṣlaḥah (public interest) and the IHL principle of distinction within the specific context of Yemen's protracted armed conflict. By adopting a case-study design supported by qualitative analysis of conflict documentation and reports, the research investigates how the synergy between al-Maṣlaḥah and the principle of distinction might inform more responsive and culturally grounded strategies to enhance civilian protection and reduce harm in complex and asymmetrical warfare settings. Drawing on Islamic jurisprudential thought, foundational IHL doctrines, and empirical evidence from Yemen, the study offers nuanced insights into both the structural challenges and latent opportunities for strengthening civilian-protection frameworks. Ultimately, it seeks to contribute to a more integrative and context-sensitive approach to civilian protection in contemporary armed conflicts.

Keywords: al-Maṣlaḥah, Internationalized Internal Armed Conflict, Yemen.



INTRODUCTION

Yemen is the most impoverished republic of the Arabian Peninsula.¹ The civil conflict in Yemen started in 2015, following confrontations among Yemeni government troops and the Houthis, formerly known as *Anṣār Allah*.² The ongoing armed conflict in Yemen has precipitated one of the most severe humanitarian crises globally.³ Yemenis continue to endure a number of challenges, such as violence, relocation, starvation, water scarcity, and sickness.⁴ This conflict has raised pressing concerns regarding the protection of civilians, particularly concerning the principles of distinction and proportionality enshrined in International Humanitarian Law.⁵ Within this context, *al-Maṣlaḥah* (public interest) concept in Islamic jurisprudence presents a valuable framework for examining the interaction of humanitarian concerns and military necessity.⁶ By reconciling the principles of *al-Maṣlaḥah* and distinction in international humanitarian law, this research paper aims to explore the convergence of perspectives in these principles, to apply them in the protection of civilians in Yemen. This country ostensibly has an Islamic socio-historical origin, which provides a basis for understanding the complexities involved in its socio-political landscape. So, the question begging for answers is how can the concepts of *al-Maṣlaḥah* and the rule of distinction be reconciled to enhance civilian protection in Yemen's conflict? This inquiry seeks to contribute to the development of effective strategies for mitigating the humanitarian consequences of armed conflict, while also

¹ Fekri Dureab et al., 'An Overview on Acute Malnutrition and Food Insecurity among Children during the Conflict in Yemen', *Children (Basel)* 6, no. 6 (2019): 77, <https://doi.org/10.3390/children6060077>; worldbank.org, 'The World Bank in Yemen', World Bank, 25 July 2025, <https://www.worldbank.org/en/country/yemen/overview>.

² USA for UNHCR: the UN Refugee Agency, 'Yemen Crisis Explained', Unrefugees.Org, <https://www.unrefugees.org/news/yemen-crisis-explained/>.

³ Anthony H. Cordesman, *The War in Yemen: Hard Choices in a Hard War* (CSIS: Center for Strategic & International Studies | Burke Chair in Strategy, 2017), 1–16, <https://www.jstor.org/stable/pdf/resrep23274.pdf>.

⁴ İrem Aşkar Karakır, 'Ongoing Conflict in Yemen: A Proxy War?', *Tesam: Akademi Dergisi* 5, no. 2 (2018): 121–49, <https://doi.org/10.30626/tesamakademi.456008>.

⁵ Cordesman, *The War in Yemen: Hard Choices in a Hard War*; Nils Melzer, *International Humanitarian Law: A Comprehensive Introduction* (ICRC: International Committee of the Red Cross, 2019).

⁶ Matthias Vanhullebusch, *War and Law in the Islamic World*, vol. 8, Brill's Arab and Islamic Laws Series (Brill, Nijhoff, 2015), <https://doi.org/10.1163/9789004298248>.

acknowledging the significance of Islamic jurisprudence in informing humanitarian responses.⁷

This study scrutinizes the concept of *al-Maṣlaḥah* (public interest) in Islam. This concept must be applied within the context of international conflicts, particularly the internationalized internal conflict in Yemen. Conversely, this study discusses the applicable international legal principles within the framework of international humanitarian law. Specifically, the principle of non-discrimination and other principles are important for resolving the conflict that has been ongoing since 2015.

METHODOLOGY

This study employs a normative legal research methodology that focuses on examining, interpreting, and systematizing the legal principles relevant to civilian protection in armed conflict, particularly the interplay between *al-Maṣlaḥah* and the IHL principle of distinction. Normative analysis is undertaken through an in-depth doctrinal examination of primary legal sources, including the Qur'an, Hadith, classical and contemporary Islamic jurisprudence texts, and the core instruments of International Humanitarian Law, aimed at elucidating their normative foundations, objectives, and points of convergence. This doctrinal inquiry is complemented by qualitative content analysis of authoritative reports and documentation from the Yemen conflict, not to produce empirical generalizations, but to contextualize how existing legal norms are challenged, interpreted, or circumvented in practice. The methodology thus integrates textual, conceptual, and comparative analyses to construct a normative argument on how the synthesis of *al-Maṣlaḥah* and the principle of distinction can strengthen civilian protection. By grounding its analysis in legal reasoning and normative interpretation, the study advances prescriptive insights on the development and refinement of civilian-protection frameworks in contemporary armed conflicts.

⁷ Abdullah Omar Balbead, 'Principles of International Humanitarian Law: A Comparative Study of International Humanitarian Law and Islamic Law', *Islamic Studies* 64, no. 2 (2025): 229–48, <https://doi.org/10.52541/isiri.v64i2.6702>.

RESULT AND DISCUSSION

An Overview of *Maṣlahah* and the Rule of Distinction

Civilians⁸ trapped in conflict zones bear the brunt of the situation, facing significant risks to their lives and livelihoods. The responsibility to protect civilians is enshrined in various legal frameworks, including Islamic law of war and IHL. These laws, which vary depending on the geographical location of the belligerent states, provide a critical foundation for safeguarding civilian populations amidst armed conflicts.⁹

The advent of Islam transformed the Arab warring culture, shifting from a celebration of martial victories to a commitment to just warfare.¹⁰ Islamic wars were primarily defensive, guided by principles of justice, humanity, and restraint, aiming to protect Muslim lives, properties, and religious freedoms.¹¹ The Prophet Muḥammad's (SAW) exemplary life, characterized by *al-Insānīyah*¹² (Humanity), underscored the importance of humanitarian considerations in Islamic history.¹³ In situations of unavoidable conflict, the Prophet implemented humanitarian instructions¹⁴ driven by *al-Maṣlahah*¹⁵ principle to regulate the conduct of

⁸ In the context of International Humanitarian Law (IHL), the term "civilian population" is defined in the negative, encompassing all individuals who do not fall into two specific categories: (1) members of the armed forces of a party to the conflict, and (2) participants in a *levée en masse*. See Additional Protocol I to the Geneva Conventions (1977) Article 50, Part IV, Chapter II, Section I: Also see Customary International Humanitarian Law (2005) Part I, Chapter I, Rule 5..

⁹ Alice Debarre, *Tensions between Counterterrorism Efforts and International Humanitarian Law*, Safeguarding Medical Care and Humanitarian Action in the UN Counterterrorism Framework (International Peace Institute, 2018), 4–10, <http://www.jstor.org/stable/resrep19637.6>.

¹⁰ Muḥammad Iqbāl al-Nadwī, *Akhlaqīyāt Al-Ḥarb Fī al-Islām* (Islamic Organization for Education, Science and Culture (ICESCO), 2014), <https://library.nadwa.in/book/akhlaqiyyat-al-harb-fi-al-islam>.

¹¹ Al-Qur'an provides: "And what is the matter with you that you fight not in the cause of Allah and (for) the oppressed among men, women and children who say, Our Lord, take us out of this city of oppressive people and appoint for us from Yourself a protector and appoint for us from Yourself a helper"? Al-Qur'an, 4:75.

¹² The Prophet Muḥammad (PBUH) played a pivotal role in combating fanaticism and racial supremacy, particularly in his farewell sermon, see Jubayer Ahmad, 'The Sermon of Hajjatul Wida: A Complete Charter of Human Rights', Daily Sun, 1 September 2017, <http://www.daily-sun.com/post/251881/The-sermon-of-Hajjatul-Wida-A-complete-charter-of-human-rights>; This notion of universal humanity is further reinforced in Al-Qur'an, 49:13.

¹³ Al-Qur'an, 21:107.; Khatib al-Tabrizi, 'Hadith No. 5800', in *Mishkat Al-Masabih* (Sunnah.com), Book 29, Hadith 60, <https://sunnah.com/mishkat:5800>

¹⁴ The *Qur'ān* and prophetic traditions established key humanitarian principles to govern the conduct of warfare. One notable example is the principle of proportionality, which is articulated in Al-Qur'an, 60:8-9.. Equally, in *Ṣaḥīḥ Muslim* highlights the Prophet Muḥammad's (SAW) emphasis on humanitarian conduct in warfare. See: Khatib al-Tabrizi, 'Hadith No. 3920', in *Mishkat Al-Masabih* (Sunnah.com), Book 19, Hadith 141, <https://sunnah.com/mishkat:3920>.; Also, check Muḥammad ibn Yūsuf al-Ṣāliḥī al-Shāmī, *Subul Al-Hudá Wa-al-Rashād Fī Sīrat Khayr al-'Ibād*, 2nd edn, 12 vols (Al-Majlis al-A'lá lil-Shu'ūn al-Islāmīyah, 2008).; Also see Muḥammad ibn Muḥammad Suwaylim Abu Shuhbah, *Al-Sīrah al-Nabawīyah 'Alā Ḍaw' al-Qur'ān Wa-al-Sunnah*, 8th edn, 2 vols (Dār al-Qalam, 2006).

combatants. This principle, rooted in Quranic teachings, prioritizes the promotion of the common good and community well-being, indicating that the primary purpose of imposing obligations or prohibitions is to achieve *al-Maṣlaḥah*.¹⁶ Equally, *Ibn ‘Ajibah* posits that the Prophet Muḥammad's (SAW) embodiment of humanity and kindness exemplifies *Maṣlaḥah*, as the purpose of prophethood would be rendered meaningless without promoting the well-being and interests of humanity.¹⁷ However, the concept of *al-Maṣlaḥah* underwent significant development through the contributions of early Islamic jurists, including *Abū Ḥanīfah al-Nu‘mān* (d. 767 CE) and *Mālik ibn Anas* (d. 795 CE).¹⁸ Subsequent scholars, such as *al-Ghazālī* (d. 1111 CE), *Fakhr al-Dīn al-Rāzī* (d. 1209 CE), and *Ibn Taymīyah* (d. 1328 CE), further consolidated and integrated *Maṣlaḥah* into Islamic law, guiding the interpretation and application of Islamic principles.¹⁹ In the modern era, thinkers like *Muḥammad ‘Abduh* (d. 1905 CE), *Rashīd Riḍā* (d. 1935 CE), and *Sayyid Quṭb* (d. 1966 CE) built upon earlier formulations, adapting *al-Maṣlaḥah* to address contemporary challenges.²⁰ However, these developments sparked debates between proponents of a more flexible, adaptive approach and those advocating for a traditional, literal interpretation.

¹⁵ *Maslaha* is commonly translated as “public interest,” “benefit,” or “utility,” denoting the promotion of collective well-being and welfare, see Rifai Sulaiman Lebbe, ‘The Concept of Public Interest in Islamic Law (Maslaha) and Its Modern Implications’, *SSRN Electronic Journal*, 18 February 2021, 1–14, <https://doi.org/10.2139/ssrn.3788222>.

¹⁶ Instances in the *Qur’ān* includes: Al-Qur’an, 2:179.; Al-Qur’an, 22:28.; Al-Qur’an, 22:39.; Al-Qur’an, 9:103.; Al-Qur’an, 59:7.; Al-Qur’an, 4:58.; and Al-Qur’an, 22:78. .

¹⁷ Aḥmad ibn ‘Ajība, *Al-Baḥr al-Madīd Fī Tafsīr al-Qur’ān al-Majīd*, 2nd edn, 7 vols (al-Maktabah al-Tawfiqīyah, 2002), 506.

¹⁸ Muḥammad ibn Aḥmad Abu Zahrah, *Mālik Ḥayātuhu Wa-‘aṣruḥ Ārā’uhu al-Fiqhīyah*, 4th edn (Dār al-Fikr al-‘Arabī, 2020), 318.

¹⁹ Abū Ḥāmid Muḥammad ibn Muḥammad al-Ghazzālī, *Al-Mustaṣfā Min ‘Ilm al-Uṣūl*, 2nd edn, vol. 1 (Dār al-Kutub al-‘Ilmiyyah, 1993).; Aḥmad ibn ‘Abd al-Ḥalīm Ibn Taymīyah, *Majmū‘ Al-Fatāwā*, 2nd edn, vol. 4 (Wizārat al-Awqāf wa-al-Shu‘ūn al-Islāmīyah, 2004).; Abū ‘Abd Allāh Fakhr al-Dīn al-Rāzī, *Al-Maḥṣūl Fī ‘Ilm al-Uṣūl*, 3rd edn (Mu’assasat al-Risālah, 1997).; Felicitas Opwis, ‘Maṣlaḥa in Contemporary Islamic Legal Theory’, *Islamic Law and Society* 12, no. 2 (2005): 182–223, <https://www.jstor.org/stable/pdf/3399225.pdf>.

²⁰ Muḥammad ‘Abduh, *Risālat Al-Tawḥīd*, 1st edn, ed. ‘Imārah Muḥammad (Dār al-Shurūq, 1994).; Muḥammad Rashīd Riḍā, *Tafsīr Al-Manār*, vol. 12 (Dār al-Kutub al-‘Ilmiyyah, 2007).; Naṣīr Zirwāq, *Maqāṣid Al-Sharī‘ah al-Islāmīyah Fī Fikr al-Imām Sayyid Quṭb*, 1st edn (Dār al-Salām lil-Ṭibā‘ah wa-al-Nashr wa-al-Tawzī‘ wa-al-Tarjamah, 2009).

On the other hand, IHL²¹ has evolved from customary practices²² in warfare, coalescing into a codified body of principles through treaty-making, conventions, and protocols, notably the Hague and Geneva Conventions. IHL protects individuals no longer participating in hostilities and regulates the conduct of warfare.²³ Its principles – humanity, universality, impartiality, neutrality, and independence – govern both international and non-international armed conflicts.²⁴ IHL's legitimacy stems from customary law, treaties, international conventions, and judicial decisions. Key provisions include the protection of civilians and objects, emphasizing distinction, prohibiting indiscriminate attacks, and upholding principles of precaution and proportionality.²⁵ Specific protections extend to medical and religious personnel, journalists, women, children, cultural property, and installations containing dangerous forces.²⁶ IHL's scope encompasses all situations meeting the threshold of armed conflict, whether on the territory of a party or elsewhere, including extraterritorial armed conflicts and situations where armed forces operate outside their own territory.²⁷ The principles of IHL have historical roots in ancient cultures and religions, indicating that the concept of regulating warfare and protecting human life is not a modern development. *al-Dāwūdī*'s analysis reveals that Judaism, alongside ancient Chinese, Indian, and Greek civilizations, established specific constraints governing conduct during armed conflict.

²¹ It is also known as the law of armed conflict or '*Jus in Bellum*' in Latin. Generally, it is defined as the body of international law governing the conduct of armed conflict". See, Jonathan Crowe and Kylie Weston-Scheuber, *Principles of International Humanitarian Law* (Edward Elgar Publishing, 2013).

²² For example, such as the military victors sparing the lives of captured enemies, or sparing the enemy civilian population, and upon the termination of hostilities, belligerent parties might agree to exchange the prisoners in their hands. See, Frits Kalshoven and Liesbeth Zegveld, *Constraints on the Waging of War: An Introduction to International Humanitarian Law*, 4th edn, with International Committee of the Red Cross (Cambridge University Press, 2012).; Salsa Anjarwati et al., 'State Responsibility for Foreign Citizens Served as Ukraine Armed Force: An International Humanitarian Law Perspective', *Prophetic Law Review* 5, no. 2 (2023): 240–57, <https://doi.org/10.20885/PLR.vol5.iss2.art6>.

²³ Marco Sassòli et al., *How Does Law Protect in War: Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law*, 3rd edn, 1 (Part 1) (International Committee of the Red Cross (ICRC), 2006).

²⁴ Michael John-Hopkins, 'Regulating the Conduct of Urban Warfare: Lessons from Contemporary Asymmetric Armed Conflicts', *International Review of the Red Cross* 92, no. 878 (2010): 469–93, <https://doi.org/10.1017/S1816383110000391>.

²⁵ John-Hopkins, 'Regulating the Conduct of Urban Warfare: Lessons from Contemporary Asymmetric Armed Conflicts'.

²⁶ Additional Protocol I to the Geneva Conventions Art. 8(c); Art. 8(d); Art. 8(2)(b)(iii); Art. 12(4), Section I, Part II.

²⁷ International Committee of the Red Cross (ICRC), *How Is the Term "Armed Conflict" Defined in International Humanitarian Law?* (ICRC, 2008), 30, https://www.icrc.org/sites/default/files/document_new/file_list/armed_conflict_defined_in_ihl.pdf.

This historical context highlights notable convergences between Islamic law and IHL, including: protection of civilians, distinction and proportionality, humanity and compassion, treatment of prisoners, conduct of hostilities, accountability and justice, protection of cultural property, and medical ethics.²⁸

Conceptual Clarifications and the Interaction of the Principles of *Maṣlaḥah* and the Rule of Distinction

To facilitate a nuanced discussion, it is essential to explore the intersection between *al-Maṣlaḥah* and the principle of distinction. Generally, *al-Maṣlaḥah*, a central concept in Islamic legal theory, refers to the overarching rationale and general objectives of the law, which aim to prevent harm and promote benefit or utility.²⁹ This concept enables jurists to address complex challenges more elaborately and flexibly.³⁰ As Opwis notes, a jurist employing substantive rationality assesses whether their conclusion aligns with the ethical goals of the law, prioritizing conformity with abstract standards and precepts that reflect the law's fundamental motivations and goals.³¹ Another point considered by the scholars is the use of either the single word *al-Maṣlaḥah* or qualified with *Mursalah*. Most of the scholars often use them interchangeably, while some make a subtle distinction between them.³² Moreover, there are juristic arguments on whether the human intellect can discern *al-Maṣlaḥah* without concrete indication from the scriptural sources of the law, since it deals with the general objectives. For this reason, the jurist argued back and forth that in the two basic modes of responsibility (i.e., act of worship and mundane practices), *al-Maṣlaḥah* is largely limited to the mundane practices because the interest sought therein can be questioned, modified, and interrogated. This is unlike the mode of

²⁸ Ahmed Al-Dawoody, 'Islamic Law and International Humanitarian Law: An Introduction to the Main Principles', in *Islamic Law and International Humanitarian Law* (Faculty of Islamic Studies, University in Sarajevo, 2020), https://library.icrc.org/library/docs/DOC/WEB_086.pdf.

²⁹ Opwis, 'Maṣlaḥah in Contemporary Islamic Legal Theory'.

³⁰ Opwis, 'Maṣlaḥah in Contemporary Islamic Legal Theory'.

³¹ Opwis, 'Maṣlaḥah in Contemporary Islamic Legal Theory'.

³² There is a debate over qualifying "*Maṣlaḥah*" with the word "*Mursalah*", i.e., the unattested *maṣlaḥah* which lacks concrete indication (*dalālah*) in the Qur'an, the Sunnah, or on account of consensus (*Ijma'*). Due to the risk of such an exercise, the jurists argued for ways to identify and determine what constitutes a legally valid *maṣlaḥah* to tag its true import to the divine will. see Opwis, 'Maṣlaḥah in Contemporary Islamic Legal Theory'.

worship, which is an exclusive right of Allah and hence rigidly guarded and can only be neutralized by evidence of its kind. *al-Maṣlaḥah* is often needed in the chapters of *al-Muʿāmalāt* (financial/marital transactions) and *al-ʿādāt* (political, social, and economic customs) because of the plethora of new cases and modern challenges springing up.³³ Also, *al-Maṣlaḥah* is very relevant in the areas where *al-Sharīʿah* provision is silent or at least gives an option or choice (*al-Ibāḥah*) to navigate subjectively. Jurists like Imām *Mālik* and *al-Tūfī* argued that the choice can metamorphose into obligatory provisions if that would be the reasonable way to secure public interest.³⁴ For example, some laws of war (*aḥkām al-ḥarb*) are elevated to the highest degree of obligation (*al-Wājib*) in a positive legal demand just to secure public interest; using a sound system to call *al-Adhān* is elevated to *al-Mandūb* (recommended) status for public interest; dealing with hard drugs or narcotics is elevated to *al-Ḥarām* (prohibition), and so on.³⁵

In contrast, the principle of distinction is a cornerstone of (IHL), mandating the differentiation between combatants and non-combatants, as well as between military objectives and civilian objects. This principle aims to prevent harm to civilians and civilian objects during armed conflicts. This principle acknowledges that the primary aim of States during warfare should be to diminish the enemy's military capabilities, while the civilian population and individual civilians must receive overall protection from the dangers posed by military actions.³⁶ Consequently, parties involved in an armed conflict are required to consistently differentiate between civilians and combatants, as well as between civilian objects and military targets, and to direct their operations strictly against military objectives.³⁷ Therefore, according to Nils Melzer (2022), 'The aim of the principle of distinction, which is to provide protection, can only

³³ Muḥammad Saʿīd Ramaḍān al-Būṭī, *Ḍawābiṭ al-Maṣlaḥah Fī al-Sharīʿah al-Islāmīyah*, 4th edn (Dār al-Fikr al-ʿArabī, 2005), 1:419.

³⁴ Wahbah Mustafa al-Zuhaylī, *Nazarīyat al-Ḍarūrah al-Sharʿīyah: Muqāranah Maʿa al-Qānūn al-Waḍʿī*, 4th edn (Muʿassasat al-Risālah, 1985); Saim Kayadibi, 'Al-Tūfī-Centred Approach to al-Maṣlaḥah al-Mursalah (Public Interest) in Islamic Law', *İslam Hukuku Araştırmaları Dergisi | Journal of Islamic Law Research*, no. 9 (2007): 71–96, https://isamveri.org/pdfdrq/D02533/2007_10/2007_10_KAYADIBIS.pdf.

³⁵ al-Zuhaylī, *Nazarīyat al-Ḍarūrah al-Sharʿīyah: Muqāranah Maʿa al-Qānūn al-Waḍʿī*.

³⁶ Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, 1st edn, ed. Carolin Alvermann (Cambridge University Press / International Committee of the Red Cross, 2005), 1:Part I, Chapter I, Rule 1.; Also see Additional Protocol I to the Geneva Conventions Art. 51 (1), Section I, Part IV.

³⁷ Additional Protocol I to the Geneva Conventions Art. 48, Section I, Part IV.; Also see Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, 1:Part I, Chapter I, Rules 1 and 7.

be fulfilled if the fundamental categories of individuals (“civilians” and “combatants”) and items (“civilian objects” and “military objectives”) are clearly defined, and if the extent and conditions of the protection given to civilians and civilian objects are well understood’.³⁸ Pursuant to the principle of distinction, civilians are entitled to protection from attacks, unless they directly participate in hostilities.

Numerous studies have explored the intersections between Islamic laws of war and (IHL), revealing a significant convergence of objectives in regulating armed conflict and mitigating its humanitarian consequences. As noted by *al-Dāwūdī* in his words:

Nonetheless, the provisions of Islamic law – as developed and documented by Muslim jurists since at least the second Islamic century (eighth century AD) – show unequivocally that many of the issues covered by IHL were addressed by the Muslim jurists in order to achieve some of the same objectives as those of IHL, namely alleviating the suffering of the victims of armed conflict and protecting certain persons and objects.³⁹

Furthermore, *al-Dāwūdī* argued that the classical Muslim jurists explored a range of issues that essentially mirror the principles and philosophy of IHL, although they are framed within a different context than the contemporary wars we observe today.⁴⁰ Consequently, the key intentions noticeable, at a glance, between *al-Maṣlaḥah* and the principle of distinction are:

1. Protection of Civilians

Both concepts prioritize the protection of civilians, although the principle of distinction limits this protection to armed conflict situations, whereas *al-Maṣlaḥah* potentially expands protection for civilians. This expansion, which generally covers public interest, can actually promote a broader reach and complement IHL’s narrow interpretation. In other words, Article 48 of Additional Protocol I outlines the principle of distinction, providing general protection for civilians and civilian property. The principle of distinction is recognized as customary law that applies equally to both international and

³⁸ Melzer, *International Humanitarian Law: A Comprehensive Introduction*, 80.

³⁹ Al-Dawoody, ‘Islamic Law and International Humanitarian Law: An Introduction to the Main Principles’.

⁴⁰ Al-Dawoody, ‘Islamic Law and International Humanitarian Law: An Introduction to the Main Principles’.

non-international armed conflicts.⁴¹ (IHL) mandates the protection of civilians from the effects of armed conflict, including violence, intimidation, and terrorism (Geneva Convention IV, Article 27), indiscriminate attacks, including those that cause excessive harm to civilians (Additional Protocol I, Article 51(1), and attacks on civilians, civilian objects, or the civilian population (Additional Protocol I, Article 51(2). On the other hand, *al-Maṣlaḥah* generally prohibits what incurs harm, either at war or at peacetime. However, as noted by Cenap, *al-Siyar* extensively discusses the individuals and groups that are afforded protection in line with the principle of *al-Maṣlaḥah*.⁴² Therefore, based on the Qur'anic verse emphasizing that Muslims should only engage in combat with those who attack them (Q2:190), individuals who refrain from participating in the conflict are safeguarded from any offensive actions by Muslim combatants. As noted by Cenap, *al-Siyar* frequently mentions these individuals explicitly because they are classified as non-combatants. For example, monks, women, underage, and non-Muslims under pact are not to be harmed as long as they do not participate in combat.⁴³

2. Prevention of Harm

Both *al-Maṣlaḥah* and the principle of distinction aim to prevent harm or minimize collateral damage, underscoring the importance of mitigating adverse consequences. IHL requires parties to armed conflicts to take precautionary measures to prevent (Geneva Convention IV, Article 25) or minimize harm to civilians (Additional Protocol I, Article 57 and 58). *al-Maṣlaḥah*, in the context of war, prioritises human life (Q17:70), prevents

⁴¹ Cenap Çakmak and Gökhan Güneysu, 'Exploring Foundational Convergence between the Islamic Law of Armed Conflict and Modern International Humanitarian Law: Evidence from al-Shaybani's Siyar al-Kabir', *International Review of the Red Cross* 102, no. 915 (2021): 1153–78, <https://doi.org/10.1017/S1816383121000503>.

⁴² Çakmak and Güneysu, 'Exploring Foundational Convergence between the Islamic Law of Armed Conflict and Modern International Humanitarian Law: Evidence from al-Shaybani's Siyar al-Kabir'.

⁴³ Çakmak and Güneysu, 'Exploring Foundational Convergence between the Islamic Law of Armed Conflict and Modern International Humanitarian Law: Evidence from al-Shaybani's Siyar al-Kabir'.

unnecessary suffering (Q2:190 and 60:8), and protects vital interests such as safeguarding access to essential resources like food, water, and medical care.⁴⁴

3. Accountability and Responsibility to Protect

Both concepts emphasize the imperative of accountability for harm inflicted upon non-combatants and the concomitant responsibility to protect them, thereby highlighting the necessity of moral and legal accountability in situations of conflict or crisis. Within the framework of IHL, States and individuals are vested with a responsibility to investigate and prosecute violations of IHL, including war crimes and grave breaches, to ensure accountability and uphold the rule of law.⁴⁵ The concept of *al-Maṣlaḥah* similarly promotes accountability and responsibility to protect, as exemplified by a prophetic tradition in which the Prophet Muḥammad (saw) is reported to have said, “Whoever killed a Mu‘āhid (a person who is granted the pledge of protection by the Muslims) shall not smell the fragrance of Paradise.”⁴⁶ Scholarly commentary, such as that of *al-Dāwūdī*, also emphasizes the need for Muslim combatants to be held accountable for harm caused during warfare.⁴⁷ Furthermore, classical Muslim jurists have engaged in debates regarding the permissibility of indiscriminate methods of warfare that may result in the killing of protected persons and damage to protected objects, citing instances such as *al-bayāt* (nighttime attacks) and *al-Tatarrus* (the use of human shields).⁴⁸ A nuanced examination of these debates reveals divergent juristic opinions, with some prohibiting such methods, others expressing disapproval, and a few permitting them only in situations of absolute necessity.⁴⁹

⁴⁴ An example of this safeguard is the famous humanitarian instructions issued by Caliph *Abū Bakr al-ṣiddīq* when he dispatched armies to Syria. See: Iḥsān al-Hindī, *Aḥkām Al-Ḥarb Wa-al-Salām Fī Dawlah al-Islām*, 1st edn (Dār al-Nimr, 1993).

⁴⁵ Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War (1949) Art. 49, 50, 129, and 146.; Additional Protocol I to the Geneva Conventions Art. 85.

⁴⁶ Muḥammad ibn Ismā‘īl al-Bukhārī, *Sahih Al-Bukhari Hadith No. 6914*, <https://sunnah.com/bukhari:6914>.

⁴⁷ Ahmed Al-Dawoody, ‘IHL and Islam: An Overview’, *Humanitarian Law & Policy Blog*, 14 March 2017, <https://blogs.icrc.org/law-and-policy/2017/03/14/ihl-islam-overview/>.

⁴⁸ Al-Dawoody, ‘IHL and Islam: An Overview’.

⁴⁹ Al-Dawoody, ‘IHL and Islam: An Overview’.

Applying the Reconciled Principles to Protecting Civilians in the Yemen Armed Conflict

The Yemeni crisis began with the uprising against President *Ali Abd Allah Saleh* from 2011 to 2012. After ruling Yemen for 33 years, he was forced to step down due to a loss of support from Saudi Arabia, leading to a power transfer facilitated by the U.S.⁵⁰ This shift was part of the broader Arab Spring, which saw many leaders ousted in nations like Egypt, Libya, and Tunisia. Following Saleh's departure, the new government, headed by his former Vice President *Abd Rabbuh Mansour Hadi*, faced challenges in bringing together the country's divided political factions while tackling threats from both *al-Qā'idah* in the Arabian Peninsula (AQAP) and *al-Ḥūthī* militants, who had been engaged in a prolonged insurgency in the north.⁵¹

In 2014, Houthi fighters took control of the capital Sana'a, compelling President *Hadi* to pursue the formation of a unity government with various political groups. It is suggested that the Houthis may not have achieved this success without the backing of *Ali Abd Allah Saleh*.⁵² Subsequently, *al-Ḥūthī* declared themselves in charge of the government, disbanded parliament, and created a temporary Revolutionary Committee led by *Mohammed Ali Al-Houthi*, a relative of *al-Ḥūthī* leader *Abdul-Malik Al-Houthi*.⁵³ On March 27, 2015, President *Hadi* fled to 'den, resigning his authority. Throughout these years, Yemen has deteriorated into a state of chaos, becoming a fertile ground for factional violence and terrorism.⁵⁴

The Saudi-led operation 'Decisive Storm' against Houthi rebels launched on March 25, 2015, at the request of the ousted President *Hadi*, took many by surprise, including close allies who were not informed during the initial planning phase.⁵⁵ Weeks into the airstrikes, interspersed with attempts at ceasefire, there was no sign of improvement; in fact, *al-Ḥūthī* launched a Scud missile attack on King Khalid Air

⁵⁰ Sungtae Park, *Fact Sheet: Yemen* (American Security Project, 2015), 11, <http://www.jstor.org/stable/resrep05998>.

⁵¹ Park, *Fact Sheet: Yemen*.

⁵² Rod Nordland and Eric Schmitt, 'Experts See Signs of Moderation Despite Houthis' Harsh Slogans', *The New York Times*, 24 January 2015, <https://www.nytimes.com/2015/01/25/world/middleeast/experts-see-signs-of-moderation-despite-houthis-harsh-slogans.html>.

⁵³ Nordland and Schmitt, 'Experts See Signs of Moderation Despite Houthis' Harsh Slogans'.

⁵⁴ Park, *Fact Sheet: Yemen*, 45.

⁵⁵ Fred Halliday, 'Saudi-Yemeni Relations: Domestic Structures and Foreign Influence', *American Political Science Review* 85, no. 2 (1991): 683–84, <https://doi.org/10.2307/1963239>.

Base in June 2015, which exacerbated the situation. This attack, reportedly based on information from the Iranian intelligence agency, resulted in the death of Saudi Air Force Commander Lieutenant General *Muhammad Bin Ahmed Al Shaalan*.⁵⁶ Additionally, contrary to earlier beliefs, President *Hadi* has minimal command over Yemen's military forces. It has been noted that roughly 80,000 regular troops loyal to Brigadier General *Ahmed Ali Saleh*, the son of *Ali Abd Allah Saleh*, are fighting alongside the Houthis.⁵⁷ The Saleh faction now wields more influence and control in areas such as *Ṣan'ā'*, *al-Ḥudaydh*, *Ḍamār*, and *Ta'izz*, while President Hadi's authority is mostly confined to Aden and nearby regions.⁵⁸

The Humanitarian Crisis

The situation in Yemen is indeed a humanitarian nightmare. The country has been divided between two major factions: *al-Ḥūthī Shi'ite* rebels and the Saudi and UAE-backed government led by Abdrabbuh Mansour Hadi. This stalemate has left Yemen without meaningful governance and security, crippling its already poor economy.⁵⁹

The consequences are devastating. As of 2024, over 18 million people - half the country's population - rely on humanitarian assistance and protection.⁶⁰ The crisis has also led to widespread malnutrition, with 7.7 million people facing hunger and 55% of children under five suffering from chronic malnutrition. The humanitarian situation continues to deteriorate, with the number of people in need of aid increasing from 18.2 million in 2024 to 19.5 million in 2025. The crisis is further complicated by the presence of other warring factions, including *al-Qā'idah* in the Arabian Peninsula (AQAP) and various tribal groups.⁶¹ The World Bank summarises the situation in Yemen in the following words:

⁵⁶ Halliday, 'Saudi-Yemeni Relations: Domestic Structures and Foreign Influence'.

⁵⁷ Khalid Iqbal, 'Yemen Crisis and Pakistan: A Holistic Overview', *Policy Perspectives: The Journal of the Institute of Policy Studies* 12, no. 2 (2015): 61–80, <https://doi.org/10.13169/polipers.12.2.0061>.

⁵⁸ Iqbal, 'Yemen Crisis and Pakistan: A Holistic Overview'.

⁵⁹ UNICEF, *Yemen Crisis: Yemen Is One of the World's Largest Humanitarian Crises – and Children Are Being Robbed of Their Futures* (2023), <https://www.unicef.org/emergencies/yemen-crisis>.

⁶⁰ Vibhu Mishra, 'UN Warns of Escalating Conflict in Yemen Amid Humanitarian Crisis, Regional Tensions', UN News: Global Perspective Human Stories, 12 September 2024, <https://news.un.org/en/story/2024/09/1154271>.

⁶¹ Mishra, 'UN Warns of Escalating Conflict in Yemen Amid Humanitarian Crisis, Regional Tensions'.

The ongoing conflict in Yemen has caused a catastrophic humanitarian crisis. As of March 2017, an estimated 17 million Yemenis (about 60 percent of the total population) are estimated food insecure and a further 7 million severely food insecure. Malnutrition has increased by 57 percent since 2015 and now affects close to 3.3 million people, 462,000 of which are children under five. The United Nations Children's Fund estimates that a child dies every ten minutes from preventable causes. About half of Yemen's population of about 26.8 million live in areas directly affected by the conflict. Over 21.1 million Yemenis (80 percent of the population) are in need of humanitarian assistance and 2.8 million Yemenis have been forcibly internally displaced.⁶²

Equally, a study of The Economics of Post-Conflict Reconstruction in MENA conducted by The IMF on the humanitarian crisis in Yemen, provides a further picture:

Social indicators in Yemen were weak before 2015, but the escalation of conflict has destroyed progress made in the past two decades. The 2015 Human Development report ranks Yemen 160th among 188 countries, a setback from 154th rank in 2014. The effect of the conflict has been catastrophic to the Yemeni people. The civilian death toll is estimated to have exceeded 6,000, with about 28,500 wounded. As of the end of 2015, 2.5 million people were estimated to be internally displaced in Yemen. The poor are suffering the most: 21.2 million Yemenis or more than 80 percent of the population are in need of emergency humanitarian assistance; 14.4 million Yemenis are facing chronic food insecurity, an increase of 35 percent since the conflict began; and 19.3 million Yemenis are without safe drinking water or sanitation. According to UN OCHA, this has led to a sharp increase in malnutrition and disease burden as reliance on water from unprotected sources makes people, particularly the young, vulnerable to diseases. ...Continued violence has taken a toll on Yemeni children. Data gathered by UNICEF show that six children have been killed or injured every day since March 2015, a sevenfold increase compared with 2014. Combatant parties have also recruited children to join the fighting. In 2015, the United Nations documented 848 cases of child recruitment, with reports suggesting that children as young as 10 were pulled into battle. There are estimates that about 3,600 schools have closed, bringing the total school-age population that is out of school to more than 3.4 million, or half of all school-aged children in the

⁶² Mishra, 'UN Warns of Escalating Conflict in Yemen Amid Humanitarian Crisis, Regional Tensions'.

country. At least 51 attacks on education facilities in Yemen have also been verified.⁶³

To make matters worse, Yemen lacks the resources to recover quickly, and even if the fighting ends, it may take a decade or more for the country to fully recover. The UN warns that the crisis will continue to grow until the fighting ends, and that no ceasefire or settlement can end the humanitarian crisis without a unified and effective government.⁶⁴

Application of the Reconciled Principles to the Conflict in Yemen

To effectively apply the principles of *al-Maṣlaḥah* and distinction in the context of the conflict in Yemen, the following situational factors must be taken into account:

1. Protection of Civilian Infrastructure

Sowers and Weinthal's article present an empirical analysis of attacks on civilian infrastructure during the Yemeni war (2011-2019), examining the indirect consequences for human security.⁶⁵ Drawing on an original database, UN and NGO reports, and interviews with humanitarian workers, their research sheds light on the complex humanitarian implications of the conflict. Furthermore, they critically assess the ethical and logistical dilemmas confronting humanitarian organizations and explore the challenges posed for future peace initiatives.⁶⁶

The conflict in Yemen has precipitated a severe humanitarian crisis, with UN agencies and conflict observers documenting a marked decline in human welfare. As of March 2020, approximately 24 million Yemenis (out of 28

⁶³ Shantayanan Devarajan et al., *The Economics of Post-Conflict Reconstruction in Mena: Middle East and North Africa Economic Monitor*, MENA Economic Monitor 2017–04 (World Bank Group, 2017), 32–34.

⁶⁴ USA Action Against Hunger, *Yemen: A Decade of Humanitarian Crisis*, Statistical Report (Action Against Hunger, NGO, 2025), <https://www.actionagainsthunger.org/story/yemen-a-decade-of-humanitarian-crisis/>.

⁶⁵ Jeannie Sowers and Erika Weinthal, 'Humanitarian Challenges and the Targeting of Civilian Infrastructure in the Yemen War', *International Affairs* 97, no. 1 (2021): 157–77, <https://doi.org/10.1093/ia/iaa166>.

⁶⁶ Sowers and Weinthal, 'Humanitarian Challenges and the Targeting of Civilian Infrastructure in the Yemen War'.

million) required assistance, coinciding with the onset of COVID-19.⁶⁷ The war has resulted in an estimated 112,000 direct deaths, with additional fatalities attributed to preventable diseases and starvation due to economic warfare and infrastructure destruction.⁶⁸

By January 2020, the World Health Organization (WHO) had documented over 2.3 million cholera cases in Yemen, marking the largest historical outbreak of the disease, which began escalating in April 2017.⁶⁹ Civilians have faced intensified hunger and disease due to attacks on civilian infrastructure, blockades of major airports and ports, city sieges, and the manipulation of humanitarian supplies.⁷⁰ Sowers and Weinthal's article offers an analysis of the targeting of civilian infrastructure, providing insights into the challenges faced by various actors in linking environmental conditions and natural resources to peacebuilding efforts in the region.⁷¹ The pursuit of peacebuilding is hampered when fundamental aspects of human security are compromised, as humanitarian agencies, governments, and civilians struggle to fulfil essential human needs, uphold public health, ensure food security, and restore livelihoods.⁷² Additionally, the article emphasises the dangers to peacebuilding posed by the destruction of the natural environment and civilian infrastructure during conflict. Extensive damage to both the environment and infrastructure makes it increasingly challenging to assist the return of displaced persons, rejuvenate livelihoods, or alleviate poverty once acute conflict has ended.⁷³

⁶⁷ International Crisis Group, 'A Coronavirus Ceasefire Offers a Way Out for War-Torn Yemen', Statement | Middle East & North Africa, 27 March 2020, <https://www.crisisgroup.org/middle-east-north-africa/yemen/coronavirus-ceasefire-offers-way-out-war-torn-yemen>.

⁶⁸ International Crisis Group, 'A Coronavirus Ceasefire Offers a Way Out for War-Torn Yemen'.

⁶⁹ World Health Organization Eastern Mediterranean Regional Office (WHO-EMRO), *Cholera Situation in Yemen: December 2020*, WHO-EM/CSR/314/E (World Health Organization, Regional Office for the Eastern Mediterranean (WHO-EMRO), 2020), <https://applications.emro.who.int/docs/WHOEMCSR314E-eng.pdf>.

⁷⁰ World Health Organization-Eastern Mediterranean Regional Office (WHO-EMRO), *Cholera Situation in Yemen: December 2020*.

⁷¹ Action Against Hunger, *Yemen: A Decade of Humanitarian Crisis*.

⁷² actionagainsthunger.org, 'Yemen: A Decade of Humanitarian Crisis', Action Against Hunger, 24 March 2025, <https://www.actionagainsthunger.org/story/yemen-a-decade-of-humanitarian-crisis/>.

⁷³ actionagainsthunger.org, 'Yemen: A Decade of Humanitarian Crisis'.

The article of Sower & Weinthal (2021) further emphasizes that a key aspect of environmental peacebuilding is acknowledging that armed conflict harms the environment and vital infrastructures essential for human health, livelihoods, and security.⁷⁴ It posits that water, energy, and agricultural systems play a crucial role in mediating the effects of conflict on human security and ecosystems, making them fundamental to comprehending the environmental consequences of war.⁷⁵ Neglecting to safeguard civilians, along with the natural resources and infrastructures they rely on, not only jeopardizes their livelihoods but also disrupts social connections, economic structures, and governance systems necessary for delivering basic services and healthcare.⁷⁶ The article also examines the level and geographical distribution of the devastation of water, energy, agricultural, and health systems in Yemen. Additionally, it analyses how humanitarian organizations have navigated competing pressures, limited resources, and the targeting of their personnel and facilities while attempting to meet the infrastructural demands created by the conflict.⁷⁷

2. Avoidance of Indiscriminate Attacks

In Yemen, extensive assaults have destroyed schools and hospitals, leading to the deaths or injuries of countless children.⁷⁸ Different groups participating in the conflict, including *al-Hūthī* and government forces, have recruited and utilized over 4,000 children in military activities, as stated by the UN.⁷⁹ The Group of Eminent International and Regional Experts on Yemen presented its most recent findings to the United Nations High Commissioner for Human Rights, indicating reasonable grounds to believe that *al-Hūthī* combatants, Yemeni military, and armed groups supported by the United Arab Emirates have executed indiscriminate strikes using "indirect fire weapons with wide-

⁷⁴ Sowers and Weinthal, 'Humanitarian Challenges and the Targeting of Civilian Infrastructure in the Yemen War'.

⁷⁵ Sowers and Weinthal, 'Humanitarian Challenges and the Targeting of Civilian Infrastructure in the Yemen War'.

⁷⁶ Sowers and Weinthal, 'Humanitarian Challenges and the Targeting of Civilian Infrastructure in the Yemen War'.

⁷⁷ Sowers and Weinthal, 'Humanitarian Challenges and the Targeting of Civilian Infrastructure in the Yemen War'.

⁷⁸ Debarati Guha Sapir et al., 'Civil War and Death in Yemen: Analysis of SMART Survey and ACLED Data, 2012–2019', *PLOS: Global Public Health* 2, no. 8 (2022), <https://doi.org/10.1371/journal.pgph.0000581>.

⁷⁹ Tirana Hassan, 'Yemen: Events of 2024', Human Rights Watch: World Report 2025, 17 December 2024, <https://www.hrw.org/world-report/2025/country-chapters/yemen>.

area effects, including rockets, mortars, and artillery" in "areas populated by civilians," resulting in the deaths of numerous men, women, and children.⁸⁰

In each instance, the Group determined that the indiscriminate nature of the attacks was due to the imprecise munitions utilized and the targeted locations.⁸¹ The principle of distinction is particularly pertinent in the context of using heavy weaponry in crowded urban settings, as illustrated by the shelling incidents mentioned above. While there were recognizable military objectives that may have been intended targets, the type of weapon used and the launch location rendered the attack indiscriminate.⁸² According to certain rulings made by the International Court, it is acknowledged that employing such weapons provides strong indications—in some instances, proof beyond reasonable doubt—of a deliberate intention to hit both civilian and military targets indiscriminately.⁸³

3. Evacuation and Humanitarian Access

It is important to facilitate the evacuation exercise because the UN has issued a serious warning regarding the escalating humanitarian crisis in Yemen, underscoring the desperate situation faced by millions.⁸⁴ As the conflict approaches its eleventh year, nearly 20 million Yemenis depend on humanitarian assistance⁸⁵ for survival, with many experiencing repeated displacements, hunger, and the breakdown of essential services. Women and children represent some of the most at-risk groups, encountering increased threats of violence, malnutrition, and poor health.⁸⁶ The continuing conflict has also resulted in significant funding deficiencies, making it progressively

⁸⁰ Hassan, 'Yemen: Events of 2024'.

⁸¹ Adil Ahmad Haque, 'The UN Report and Indiscriminate Attacks in Yemen', Just Security, 13 September 2019, <https://www.justsecurity.org/66170/the-un-report-and-indiscriminate-attacks-in-yemen/>.

⁸² Haque, 'The UN Report and Indiscriminate Attacks in Yemen'.

⁸³ See the case *The Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06 (International Criminal Court (ICC) 8 July 2019), <https://casebook.icrc.org/case-study/icc-prosecutor-v-bosco-ntaganda>.

⁸⁴ 'UN Warns of Extremely Difficult Humanitarian Conditions in Yemen', [yemenonline.info](https://www.yemenonline.info/special-reports/9103), 8 April 2025, <https://www.yemenonline.info/special-reports/9103>.

⁸⁵ Sameh Al-Awlaqi et al., 'The National Health Cluster in Yemen: Assessing the Coordination of Health Response During Humanitarian Crises', *Journal of International Humanitarian Action* 7, no. 1 (2022): 9, <https://doi.org/10.1186/s41018-022-00117-y>.

⁸⁶ [yemenonline.info](https://www.yemenonline.info), 'UN Warns of Extremely Difficult Humanitarian Conditions in Yemen'.

harder for humanitarian organizations to deliver sufficient aid. Migrants trapped in Yemen are enduring horrifying conditions, including exploitation and violence, with few chances for escape. The UN has stressed the immediate need for global unity to tackle these issues and ensure that millions are not left behind.⁸⁷

The ICRC has also noted that after ten years of crisis, the demand for humanitarian aid in Yemen continues to escalate. By 2025, approximately 19.5 million individuals are projected to require humanitarian support and protection, representing an increase of nearly 7% from 2024.⁸⁸ Currently, over 83% of the population in the country lives in poverty. More than 4.5 million individuals are currently displaced within the country, with many having been displaced multiple times during the past decade.⁸⁹ IRC teams are seeing an increasing need in displacement camps, where families struggle with limited access to food⁹⁰, healthcare, and clean water. This situation arises at a time when malnutrition rates are among the highest globally. These statistics highlight the cumulative impact of a crisis that has intensified year after year, resulting in families having fewer resources and services, as well as no safe options available to them.⁹¹

ICRC argued further that in spite of these escalating needs; the humanitarian response remains significantly underfunded. The 2025 Humanitarian Needs and Response Plan (HNRP) aim to raise \$2.47 billion to assist 10.5 million individuals—but as of March 2025, it has only received 5% of the needed funds.⁹² ICRC noted that in 2024, the response was allocated just over half of what was required, compelling aid organizations to reduce essential support

⁸⁷ yemenonline.info, 'UN Warns of Extremely Difficult Humanitarian Conditions in Yemen'.

⁸⁸ International Rescue Committee, 'A Decade of Conflict in Yemen: Humanitarian Lifeline on the Brink, Warns the IRC', 26 May 2025, <https://www.rescue.org/press-release/decade-conflict-yemen-humanitarian-lifeline-brink-warns-irc>.

⁸⁹ International Rescue Committee, 'A Decade of Conflict in Yemen: Humanitarian Lifeline on the Brink, Warns the IRC'.

⁹⁰ Hashim Talib Hashim et al., 'Yemen's Triple Emergency: Food Crisis Amid a Civil War and COVID-19 Pandemic', *Public Health in Practice* 2 (November 2021), <https://doi.org/10.1016/j.puhip.2021.100082>.

⁹¹ International Rescue Committee, 'A Decade of Conflict in Yemen: Humanitarian Lifeline on the Brink, Warns the IRC'.

⁹² International Rescue Committee, 'A Decade of Conflict in Yemen: Humanitarian Lifeline on the Brink, Warns the IRC'.

such as food distributions and limit access to clean water and other vital services. Anticipated decreases in U.S. contributions, which provided over half of the total humanitarian funding for Yemen in 2024, pose a risk of widening this funding gap even further, putting millions at an increased threat of hunger, illness, and further displacement.⁹³

4. Accountability and Investigations

This is important because over the past year, there have been numerous violations of human rights in Yemen that need to be addressed. These violations include *al-Ḥūthī* arbitrary detainment and disappearance of multiple UN and civil society personnel, along with their raid on the OHCHR office in *Ṣan‘ā’*; a rise in arbitrary detentions of human rights activists, journalists, and others by various authorities throughout the nation;⁹⁴ the appropriation of a women’s shelter in the southern region and growing constraints on women’s freedom of movement imposed by all authorities across Yemen; an escalation in *al-Ḥūthī* recruitment of child soldiers; and the hindrance of humanitarian assistance and information, which has worsened the severe cholera outbreak.⁹⁵

In 2016, the Yemeni National Commission to Investigate Alleged Violations of Human Rights (NCIAVHR) began the process of documenting and investigating abuses of international human rights and humanitarian law that have occurred since 2011.⁹⁶ To date, NCIAVHR has recorded over 23,000 human rights violations committed by various factions involved in the conflict. The commission has referred more than 2,000 cases to Yemen's Public Prosecutor for further examination and potential prosecution.⁹⁷ However, none of these cases has resulted in a verdict so far. This lack of a verdict implies a lack of accountability, perpetuation of impunity, erosion of public

⁹³ International Rescue Committee, ‘A Decade of Conflict in Yemen: Humanitarian Lifeline on the Brink, Warns the IRC’.

⁹⁴ HRW Oral Statement, *Yemen: Urgent Need for an Investigation and Accountability Mechanism to End Impunity* (2024), <https://www.hrw.org/news/2024/10/09/yemen-urgent-need-investigation-and-accountability-mechanism-end-impunity>.

⁹⁵ HRW Oral Statement, *Yemen: Urgent Need for an Investigation and Accountability Mechanism to End Impunity*.

⁹⁶ HRW Oral Statement, *Yemen: Urgent Need for an Investigation and Accountability Mechanism to End Impunity*.

⁹⁷ HRW Oral Statement, *Yemen: Urgent Need for an Investigation and Accountability Mechanism to End Impunity*.

trust in the judiciary, and gross violation of the obligation to prosecute serious violations under IHL⁹⁸ as outlined in Articles 49 and 50 GC I-IV. The ongoing conflict, along with the resulting instability and ineffective governmental authority, has severely undermined the Yemeni judicial system, with judicial members facing threats. Significant institutional reforms are crucial to establishing a more independent judiciary that possesses a broader understanding of transitional justice, which is necessary to restore public trust in the judiciary's capacity to deliver justice.⁹⁹

The commission has suggested that it is vital to create a specialized court staffed with qualified judges who are familiar with the peculiarities of these cases in Yemen and understand the processes for prosecuting human rights violators, particularly those in positions of power.¹⁰⁰ Judge *Hussein Al-Mashdali*, the NCIHVHR's deputy president, noted that there is a considerable volume of files the commission intends to submit to the judiciary, and the complexity of the cases presented by victims cannot be adequately managed by the current institutions and frameworks, which do not have a proper legal structure for addressing human rights violations in Yemen.¹⁰¹

Equally, civil society organizations, including Yemeni NGOs, continue to call for the Council to establish an investigation and accountability mechanism as a step towards ending impunity for the years of rights violations. The recent escalation in abuses is linked to that lack of accountability.¹⁰²

CONCLUSION

The ongoing conflict in Yemen has precipitated a catastrophic humanitarian crisis, characterised by extensive harm to civilians and civilian infrastructure. In this

⁹⁸ Louisa Ashley, 'Human Rights Violations in Yemen and the Prospects for Justice', in *Human Rights in War*, ed. Damien Rogers, International Human Rights (Springer Singapore, 2021), https://doi.org/10.1007/978-981-15-5202-1_16-1.

⁹⁹ HRW Oral Statement, *Yemen: Urgent Need for an Investigation and Accountability Mechanism to End Impunity*.

¹⁰⁰ Nour El Bejjani Nouredine, *Accountability in Yemen Requires a Comprehensive Transitional Justice Process* (ICTJ: International Center for Transitional Justice, 2023), <https://www.ictj.org/latest-news/accountability-yemen-requires-comprehensive-transitional-justice-process>.

¹⁰¹ Nouredine, *Accountability in Yemen Requires a Comprehensive Transitional Justice Process*.

¹⁰² Nouredine, *Accountability in Yemen Requires a Comprehensive Transitional Justice Process*.

context, reconciling the principles of *al-Maṣlaḥah* (public interest) and distinction under (IHL) is of paramount importance for ensuring the protection of civilians. The principle of *al-Maṣlaḥah* prioritises the preservation of human life, dignity, and well-being, necessitating consideration of the long-term consequences of actions on civilians and the implementation of measures to minimise harm. Conversely, the principle of distinction under IHL obliges parties to the conflict to differentiate between legitimate military targets and civilians or civilian objects to safeguard civilians from the effects of hostilities.

Finally, the conflict in Yemen is characterised by a complex web of actors, interests, and motivations, which makes it challenging to apply the principles of *al-Maṣlaḥah* and distinction. Yet, despite these challenges, there are opportunities for the parties involved in the conflict to demonstrate their commitment to protecting civilians and upholding IHL and Islamic principles, if Islam is indeed still deeply rooted in their hearts and systems, as has been purportedly claimed. By prioritising the protection of civilian life and infrastructure, avoiding indiscriminate attacks, facilitating evacuation and humanitarian access, and ensuring accountability, the parties to the conflict can work towards a more humane and sustainable resolution.

COMPETING INTEREST

The authors of the study affirm that they have no potential conflicts of interest

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