



The Role of National Courts in Prosecuting International Crimes with an Emphasis on the Assassination of Martyr General Soleimani

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The case of the assassination of Martyr General Qasem Soleimani, an official military commander of the Islamic Republic of Iran, constitutes a clear example of the violation of peremptory norms (*jus cogens*) and a threat to international peace and security from the perspective of international criminal law. In light of the absence of genuine willingness or effective jurisdiction by international bodies or the responsible states, assessing the feasibility of criminal prosecution within the judicial system of the Islamic Republic of Iran has gained heightened significance. This study, focusing on the capacities of Iran's domestic legal system, analyzes the theoretical foundations and procedural frameworks related to criminal jurisdiction—particularly in cases of *in absentia* proceedings, protective jurisdiction, and the use of judicial and police mutual assistance mechanisms such as INTERPOL (e.g., Red Notices) (see, e.g., Cassese, 2013; Schabas, 2020, APA style). The present study demonstrates that the principles of the Constitution, relevant provisions of substantive and procedural criminal laws, as well as formal mechanisms of international cooperation, enable Iranian courts—provided that procedural standards such as lawful service of process, preservation of the right to defense, and reasoned judicial decisions are observed—to legitimately and validly adjudicate international crimes committed against the country's national interests. Furthermore, doctrinal-jurisprudential analysis of concepts such as *moharebeh* (armed hostility against society) and *efsad fi al-ard* (corruption on earth) provides a Sharia-based foundation for pursuing such crimes. Accordingly, conducting *in absentia* proceedings against the perpetrators of the assassination, when accompanied by the proper use of legal and diplomatic tools, can yield not only domestic legal effects but also convey a politico-legal message to the international community.

Keywords: *national criminal jurisdiction, in absentia proceedings, judicial mutual assistance, moharebeh, efsad fi al-ard.*

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1. Introduction

International crimes, as the gravest violations of the legal and moral order of humanity, have always been at the center of attention for the international community and states. Due to their severity and the threat they pose to international peace and security, these crimes require effective mechanisms for

prevention, prosecution, and punishment of perpetrators. Historical experience has shown that relying solely on international mechanisms is insufficient, as political considerations, jurisdictional limitations, and dependence on state consent have challenged the effectiveness of such institutions. For this reason, the role of national courts as the primary jurisdictional authorities and the most important



instruments against impunity becomes significantly more important. The principle of complementarity in the Rome Statute clearly states that the prosecution of international crimes is primarily the responsibility of states, and only when they are “unwilling” or “unable” to genuinely prosecute will the International Criminal Court assume jurisdiction (Rome Statute of the International Criminal Court, 1998; Schabas, 2017).

Within this framework, the Islamic Republic of Iran, as a state possessing an independent legal system rooted in Islamic principles and constitutional norms, is obligated to demonstrate an effective legal response to international crimes. Principles such as the right to public litigation (Article 34), protection of life and dignity (Article 22), and equality before the law (Article 20) provide a strong foundation for performing this responsibility at the national level (Constitution of the Islamic Republic of Iran, 2017). Accordingly, Iran’s national courts are obligated—legally, ethically, and politically—to take action in the face of crimes committed against Iranian nationals or against the security and territorial integrity of the country.

The assassination of Martyr General Qasem Soleimani in January 2020 by the United States constitutes one of the most prominent examples of such violations. The significance of this case lies in its illumination of the boundary between ordinary crimes against persons and international crimes with transnational dimensions, raising fundamental questions regarding the scope and effectiveness of national jurisdiction in prosecuting perpetrators of such acts. This research therefore highlights the necessity of reassessing the capacities of Iran’s national courts and evaluating their compatibility with international criminal procedure standards (Fazaeli, 2020; Gadimi et al., 2023).

Given these imperatives, the present study seeks to examine—using the case of General Soleimani’s assassination—the theoretical and practical dimensions of the role of Iran’s national courts in addressing international crimes. The primary objective is to analyze the extent of national jurisdiction within the principles of territoriality, active and passive personality, and protective jurisdiction, as well as to assess Iran’s legal capacities for exercising such jurisdiction (Hosseini, 2020; Rezaei & Mahdavi Sabet, 2021). In addition, the article aims to identify major obstacles, including foreign official immunity, difficulties in collecting

extraterritorial evidence, and the absence of specialized chambers, and to propose mechanisms for strengthening national effectiveness (Jahanbakhsh, 2022; Nouri, 2019). Structurally, the article is organized into four sections: The first section elaborates the theoretical and conceptual foundations, defining national courts and distinguishing them from international bodies, while outlining the international crimes relevant to the study. The second section examines jurisdictional frameworks and national procedural rules, analyzing territorial, personal, protective, and *in absentia* jurisdiction. The third section analyzes General Soleimani’s assassination case from domestic and international perspectives, and the fourth section evaluates the obstacles and capacities of the national system and offers recommendations for reform and strengthening.

2. Concepts and Theoretical Foundations

This chapter outlines fundamental concepts related to judicial jurisdiction, national and international litigation, and criminal law principles within the framework of the Islamic Republic of Iran and international law. It further examines Iran’s legal capacities and institutional structures for addressing transnational crimes and international offenses.

2.1. National Courts versus International Tribunals

National courts constitute the foundational organs of every legal system for exercising sovereignty and ensuring the implementation of criminal justice. These courts are responsible for prosecuting and adjudicating crimes within defined jurisdictional limits. Traditional bases of jurisdiction in international criminal law encompass four primary axes: territorial jurisdiction (crimes committed within the state’s territory); active personality jurisdiction (based on the nationality of the perpetrator); passive personality jurisdiction (based on the nationality of the victim); and protective jurisdiction applied when the offense threatens essential national security interests (Hamidi, 2019; Shirzadi, 2021). In some legal systems, limited interpretations of universal jurisdiction are also recognized, though its implementation is subject to explicit domestic legislation and political-legal considerations (Rostami, 2019; Ziaei & Hakimihas, 2016).

In contrast, international tribunals such as the International Criminal Court are designed as complementary—not substitutive—institutions. Article 17 of the Rome Statute reiterates the principle of complementarity, establishing that national courts constitute the primary and natural venues for prosecuting international crimes, and the ICC intervenes only when states are unwilling or unable to conduct genuine proceedings ([Rome Statute of the International Criminal Court, 1998](#)). Schabas's interpretation emphasizes that the ICC functions as a "court of last resort," with national systems remaining the core of international criminal accountability ([Schabas, 2017](#)). Hence, the main responsibility for achieving international criminal justice continues to rest on states and their national institutions.

This theoretical framework gains heightened importance in the case of General Soleimani's assassination. Since the operation occurred outside Iran's borders and was conducted by a foreign state, questions concerning ICC jurisdiction may arise. However, if Iran's judiciary conducts genuine proceedings—observing procedural guarantees such as the right to defense, publicity of trial, and written reasoning—and relies on territorial effects (impact within Iran), passive personality (Iranian nationality of the victim), or protective jurisdiction (threat to national security), then under the logic of complementarity, national courts retain priority ([Hosseini, 2020](#); [Khaleghi, 2025](#)). Thus, Iran's national courts possess a legitimate and internationally recognized basis for pursuing this sensitive case.

2.2. Structure of Iranian Courts

The judiciary of the Islamic Republic of Iran, based on the Constitution and statutory law, consists of general courts, revolutionary courts, appellate courts, the Supreme Court, and the Administrative Justice Court. According to the Law on the Establishment of General and Revolutionary Courts (1994 and subsequent reforms), revolutionary courts are specialized bodies for crimes such as *moharebeh*, *efsad fi al-ard*, conspiracy against national security, and actions against the Islamic Republic. Articles 279 and 286 of the Islamic Penal Code (2013) define these offenses as acts involving violence, disruption of public order, public intimidation, or threats against national security. In judicial practice, certain

forms of assassination have been examined under these categories when statutory elements are met ([Nasiri, 2021](#)).

Given the absence of dedicated domestic legislation on universal jurisdiction, Iran's national courts rely on traditional bases of international criminal jurisdiction—especially protective and passive personality jurisdiction—for transnational crimes such as political killings or extraterritorial assassinations. Articles 7 and 8 of the Islamic Penal Code (2013) provide the foundation for prosecuting crimes committed abroad against Iranian nationals or national security ([Ahmadi, 2019](#)).

Procedurally, Article 302 of the Criminal Procedure Code (2013) expressly permits *in absentia* proceedings in major offenses, including those against national security, subject to formal notification, adequate opportunity for defense, appeal mechanisms, and written reasoning—standards compatible with internationally recognized fair-trial requirements ([Narimani, 2022](#); [Sanei, 2019](#)).

In the case of General Soleimani's assassination—considering his Iranian nationality, his official military status, the locus of the event in Iraq, and the direct involvement of the United States—both protective and passive personality jurisdiction are fully justifiable ([Kohkan et al., 2022](#); [Kousha et al., 2024](#)). Comparative practice, such as the Pinochet litigation in the United Kingdom, illustrates that national courts may exercise extraterritorial jurisdiction in certain grave international crimes ([International Court of, 2002](#)). Iranian legal scholars have similarly affirmed the feasibility of relying on these bases for prosecuting foreign suspects in this case ([Hosseini, 2020](#); [Shirzadi, 2021](#)).

2.3. International Crimes

In international criminal law, international crimes fall into four main categories: genocide, crimes against humanity, war crimes, and the crime of aggression ([Rome Statute of the International Criminal Court, 1998](#)). With respect to General Soleimani's assassination, three categories may be relevant:

Crime against humanity: Article 7 of the Rome Statute defines it as a widespread or systematic attack against a civilian population. Determining applicability in this case requires assessing whether the act formed part of an intentional policy targeting Iranian civil society or state

representatives, and whether the material and mental elements are satisfied (Schabas, 2017).

War crimes: These require the existence of an international armed conflict and a nexus between the act and the conflict. Although no declared war existed between the United States and Iran, certain cross-border operations have been treated as occurring within informal hostilities in some interpretations (Fazaeli, 2020).

Arbitrary deprivation of life: Under international human rights law, extrajudicial killings conducted outside legal process constitute violations of the right to life. The UN Human Rights Committee's General Comment No. 36 explicitly states that targeted killings by foreign states may violate Article 6 of the ICCPR (United Nations Human Rights Committee, 2018). This category provides the strongest analytical basis for examining General Soleimani's assassination.

2.4. Relevant Iranian Legal Framework

The legal system of the Islamic Republic of Iran is rooted in a close interconnection between Islamic jurisprudence and constitutional principles, ensuring both human-rights guarantees and national security requirements. At the constitutional level, multiple articles affirm respect for human dignity, the right to life, lawful freedoms, personal security, and the right to litigation. Article 20 establishes equality before the law; Article 22 protects life, dignity, property, and rights; Article 32 mandates lawful arrest procedures; and Article 34 guarantees the right to seek justice (Constitution of the Islamic Republic of Iran, 2017).

The Islamic Penal Code (2013), through traditional jurisprudential concepts such as *moharebeh* and *efsad fi al-ard*, provides frameworks for addressing organized violent acts. Article 279 defines *moharebeh* as armed action causing terror or disturbance of public security; Article 286 defines *efsad fi al-ard* as conduct causing widespread harm to public order, life, property, or societal security. Assassinations targeting governmental or military figures with political motives and substantial impact on national security may fall under these provisions (Torabi et al., 2019).

From a jurisprudential standpoint, numerous authorities affirm the legitimacy of confronting political assassination, identifying targeted armed attacks on state officials as instances of *efsad fi al-ard* or, in certain

cases, *baghy* (rebellion) (Safaei, 2013). These doctrinal analyses reinforce the substantive legal foundation for domestic prosecution of cross-border crimes.

In addition, Iran's procedural laws provide effective tools for adjudication. Under Article 302 of the Criminal Procedure Code, crimes against national security may be tried in special chambers and even *in absentia*, provided defendant rights concerning notification and appeal are observed (Sanei, 2019). This framework grants national courts both jurisdiction and legal obligation to adjudicate crimes such as the assassination of Iranian officials, especially when the case implicates national sovereignty and public dignity (Sobhkhiz, 2023).

In light of this framework, adjudicating cases such as the assassination of General Soleimani is not merely a reactive measure but constitutes a legal, ethical, and religious obligation—an affirmation of state sovereignty and a clear message supporting criminal justice at both national and international levels (Gadimi et al., 2023; Mahmoudi, 2020).

3. Jurisdictional Framework and National Proceedings

This chapter explains the foundations, developments, and practices related to universal jurisdiction and evaluates the possibility of its application within the framework of Iran's national courts. The compatibility of universal jurisdiction with domestic legal principles and international practice is also analyzed in this section (Rostami, 2019; Ziaei & Hakimihis, 2016).

3.1. Principles of Jurisdiction

In international criminal law, principles of judicial jurisdiction constitute the basis for determining the legitimacy of a court's competence to adjudicate a specific crime. The four recognized principles are territorial jurisdiction, personal jurisdiction (active and passive), protective jurisdiction, and universal jurisdiction (Schabas, 2017). Territorial jurisdiction, the broadest and most accepted type, is exercised on the basis of the crime being committed within the state's territory. Active personality jurisdiction applies when the perpetrator is a national of the forum state, and passive personality jurisdiction applies when the victim is a national of that state. Protective jurisdiction is engaged where the offense directly threatens the

national security or fundamental interests of the state—even if the crime did not occur on its soil and neither the perpetrator nor the victim is its national (Ziaei & Hakimihas, 2016).

In Iranian criminal law, these principles are expressly reflected in the Islamic Penal Code. In particular, Articles 7 and 8 of the Code provide jurisdiction over offenses committed against Iranian nationals abroad and over crimes that undermine the internal or external security of Iran (Ahmadi, 2019; Noorbaha, 2019). Article 8 states: “Any Iranian who commits an offense outside the country ... and any foreign national who commits an offense outside the country against the system, independence, internal or external security of the Islamic Republic of Iran shall be punished in accordance with the laws of the Islamic Republic of Iran.”

Universal jurisdiction, which allows states to exercise jurisdiction over crimes of an inherently international nature—such as genocide, crimes against humanity, and war crimes—without requiring territorial or personal links, is recognized in international law but has not been explicitly and broadly incorporated into Iran’s domestic legislation. Consequently, its application must remain limited, case-specific, and grounded in explicit statutory provisions (Rostami, 2019; Ziaei & Hakimihas, 2016).

With respect to the subject of this study—the assassination of Martyr General Qasem Soleimani on Iraqi soil by United States forces—several jurisdictional bases are available to Iranian courts. First, as an Iranian national, General Soleimani falls within the scope of passive personality jurisdiction. Second, because the act directly targeted the interests and national security of the Islamic Republic of Iran, protective jurisdiction is also applicable (Hosseini, 2020). The combination of these two bases renders the involvement of Iran’s national courts internationally legitimate and justified, provided that fair trial standards are observed and the material and mental elements of the crime are duly established (Rahimi, 2021). In particular, where the respondent state (the United States) not only refuses to cooperate in investigations but also disregards the principle of accountability, national proceedings become even more defensible under the complementarity regime of the Rome Statute (Rome Statute of the International Criminal Court, 1998; Schabas, 2017).

3.2. Subject-Matter Jurisdiction of the Revolutionary Court

In the judicial system of the Islamic Republic of Iran, the Islamic Revolutionary Court—established by the Law on the Establishment of General and Revolutionary Courts (adopted in 1994) and its subsequent amendments—has jurisdiction over certain specific categories of offenses, most notably crimes against internal and external security, *moharebeh*, *efsad fi al-ard*, terrorist acts, and organized crimes (Koushki & Alizadeh Seresht, 2015; Nasiri, 2021). However, the Revolutionary Court’s jurisdiction is neither absolute nor all-encompassing; rather, it depends on the “type of offense” and on whether the impugned conduct fits within the statutory criminal titles just mentioned (Mirmohammadsadeghi, 2020).

More precisely, “assassination” as such is not an autonomous criminal title under Iranian law. Instead, terrorist conduct, depending on its circumstances and consequences, may be prosecuted under headings such as *moharebeh* (Article 279 of the Islamic Penal Code), *efsad fi al-ard* (Article 286), or acts against national security (Articles 500 and 514 of the Code) (Torabi et al., 2019). Each of these offenses has specific material and mental elements, and attributing them to the perpetrator requires careful analysis of the elements of the crime (Nasiri, 2021).

From a jurisdictional standpoint, the principles of territorial, active or passive personality, and protective jurisdiction form the basis for judicial involvement. Therefore, the mere fact that an assassination targets an Iranian national or occurs abroad is not sufficient; the conduct must be legally classifiable under one of the statutory criminal titles and a jurisdictional link must be established (Rostami, 2019).

In relation to the assassination of Martyr General Qasem Soleimani, analyzing the elements of the offense and determining their conformity with titles such as *moharebeh*, *efsad fi al-ard*, and “acts against external security of the state” is a precondition for recognizing the Revolutionary Court’s jurisdiction. Given that the target was a high-ranking Iranian military commander abroad and that the operation had a direct and evident impact on Iran’s national security, classifying the conduct under the aforementioned offenses—and thus establishing the subject-matter jurisdiction of the Revolutionary Court—is defensible under domestic law, provided that the

proceedings are grounded in sound legal reasoning, based on statutory provisions, and conducted in line with fair trial principles (Hamidi, 2019; Nasiri, 2021).

3.3. *In Absentia Proceedings and Procedural Guarantees*

In Iran's criminal procedure system, *in absentia* proceedings are recognized as a lawful mechanism for dealing with situations in which the accused is beyond reach, and this mode of adjudication is clearly regulated in statutory law. Such proceedings are particularly significant in transnational cases where the accused is a foreign national or enjoys diplomatic immunity, making physical appearance before domestic courts impossible. In cases such as the assassination of Martyr General Soleimani—where the principal suspects are official and military authorities of the United States and summons or extradition is practically impossible—resorting to *in absentia* proceedings may constitute the only effective legal avenue for the administration of justice at the national level (Sanei, 2019; Sobhkhiz, 2023).

Under the Criminal Procedure Code adopted in 2013, *in absentia* adjudication is permitted within a framework of three fundamental guarantees whose observance is essential for the procedural legitimacy of the proceedings. The first is lawful and sufficient service of judicial documents on the accused. Article 406 of the Code provides that service on persons residing outside Iran must be carried out through the Ministry of Foreign Affairs, embassies, or other recognized international channels. This ensures that, even in the physical absence of the accused, the claim of lawful notification remains evidentially defensible (Mahmoudi, 2020).

The second guarantee concerns the right of opposition and appeal for the absent accused. Articles 407 and following stipulate that an *in absentia* judgment is not deemed final and enforceable unless the accused fails to exercise his right to object or appeal within the prescribed time limit. This reflects the Iranian judiciary's commitment to the right of defense and fundamental rights of the accused (Abdollahi, 2021).

The third guarantee is the obligation to provide a reasoned, written judgment supported by evidence. In line with procedural principles and judicial practice, every judgment must contain clear legal reasoning and be based on verifiable evidence. A decision founded merely on assumptions or political argumentation is subject to quashing by higher courts and lacks legal

authority (Narimani, 2022). In highly sensitive cases with international implications, such as the assassination of General Soleimani, meticulous drafting of judgments and the presentation of robust legal arguments not only carry evidential weight domestically but also enhance Iran's legitimacy in the eyes of international public opinion and human rights bodies (Rahimi, 2021).

Ultimately, if a competent Iranian court conducts *in absentia* proceedings against international suspects while fully observing these guarantees, its action will rest on solid procedural grounds. By balancing society's right to justice with the accused's right to defense, such proceedings can provide a persuasive model of fair *in absentia* adjudication—one that is likely to be noted and respected in the field of international criminal law (Sobhkhiz, 2023).

3.4. *Judicial Cooperation and Mutual Legal Assistance*

In transnational cases such as the assassination of Martyr General Qasem Soleimani, where parts of the planning, operation, or execution took place beyond national borders, recourse to international mechanisms for fact-finding, evidence collection, and extradition of suspects becomes particularly crucial. In this context, mutual legal assistance (MLA) is one of the key legal instruments of international criminal procedure, pursuant to which states undertake, upon formal request, to cooperate in areas such as taking testimony, transmitting documents, tracing assets, or provisionally arresting suspects (Mahmoudi, 2020; Nouri, 2019).

In Iran's domestic law, the framework for judicial cooperation is structured around three main sources: (1) specific legislation and regulations concerning international criminal cooperation, (2) bilateral or multilateral treaties between states, and (3) the principle of reciprocity in the absence of formal agreements. In practice, these forms of cooperation are channeled through a "central authority," namely the Ministry of Justice and the General Directorate for International Cooperation of the Judiciary, which are responsible for drafting, transmitting, following up on, and receiving formal requests for international judicial measures such as extradition, transmission of documents, or enforcement of judgments (Mahmoudi, 2020).

In cases of this nature, particularly regarding the transfer or use of evidence collected within other states' territories, strict compliance with the legal and technical

chain of custody is essential. Any breach in this chain can lead to the evidentiary invalidation of materials submitted to the court, especially where the authenticity of evidence must be accepted under both legal systems—the requesting and the requested state (Asgari, 2022). Beyond judicial avenues, international police cooperation mechanisms also play a complementary role. The International Criminal Police Organization (INTERPOL), through tools such as Red Notices, enables the formal worldwide dissemination of wanted notices for suspects. The National Central Bureau of INTERPOL in Iran, affiliated with the Law Enforcement Command of the Islamic Republic of Iran, is responsible for drafting, sending, and following up such notices and related communications for the identification and apprehension of suspects at the international level (Interpol, 2012; Soleimani, 2021).

In a case like the assassination of Martyr General Soleimani, the international character of the crime—considering the nationality of the perpetrators, the place of commission, and its security implications—requires the Islamic Republic of Iran to rely formally and on the basis of clear legal documentation on the capacities of mutual legal assistance and police cooperation. Submitting official requests for evidence collection, asset freezing, or issuing Red Notices against individuals lacking political immunity not only supplies a defensible legal basis for national proceedings but also demonstrates, from a diplomatic standpoint, Iran's seriousness in using lawful avenues to pursue justice (Nouri, 2019). If such an approach is underpinned by rigorous documentation and observance of legal requirements, it can also attract the support of international human rights mechanisms (Rahimi, 2021).

4. Substantive Analysis of the Soleimani Case in Domestic and International Law

In this chapter, the conduct of the United States is analyzed from the perspectives of public international law, international humanitarian law, and international human rights law, as well as core principles of international criminal law such as crimes against humanity. The possibility of subsuming this conduct under the criminal offenses provided in Iran's criminal legislation is also examined.

4.1. *Arbitrary Deprivation of Life / Extrajudicial Killing*

In international human rights law, the right to life is among the fundamental rights protected under Article 6 of the International Covenant on Civil and Political Rights, which provides that “no one shall be arbitrarily deprived of his life.” General Comment No. 36 (2018) of the United Nations Human Rights Committee sets out specific criteria for assessing the “arbitrariness” of a deprivation of life by states, namely necessity, proportionality, legality, and accountability (United Nations Human Rights Committee, 2018).

From a legal standpoint, arbitrary deprivation of life occurs when a state or its agents physically eliminate an individual without observing due process or outside the framework of international law. This issue becomes particularly problematic when the target of the operation is an official of another state, on the territory of a third country, and without that country's consent (Hosseini, 2020; Rahimi, 2021).

On 3 January 2020, the United States of America conducted a drone strike near Baghdad International Airport, assassinating Martyr General Qasem Soleimani—Commander of the Quds Force of the Islamic Revolutionary Guard Corps—along with his Iraqi and Lebanese companions. In view of the location, the nationality of those killed, and the identity of the perpetrators, this operation is a paradigmatic example of a targeted killing outside the framework of a declared armed conflict. Agnes Callamard, then UN Special Rapporteur on extrajudicial, summary or arbitrary executions, stated in her official report to the Human Rights Council that this operation was “unlawful and a serious violation of international law” and that the United States had failed to demonstrate an imminent threat or urgent necessity justifying such action (Callamard, 2020; Fazaeli, 2020; Gadimi et al., 2023; Kousha et al., 2024).

An assessment of this event in light of the criteria in General Comment No. 36 shows that:

- **Necessity:** No evidence has been presented of an immediate necessity for self-defense within the meaning of Article 51 of the UN Charter.
- **Proportionality:** The killing of several individuals on the territory of a third state, in the absence of a clearly established state of armed

conflict, does not meet the legal standard of proportionality.

- **Legality:** Neither a clear domestic legal basis in the United States nor the consent of the Iraqi government as the territorial state has been demonstrated.
- **Accountability:** To date, the United States has neither conducted an independent investigation into the lawfulness of the operation nor accepted responsibility for a wrongful act, but has instead portrayed it as a “security achievement” (Callamard, 2020; United Nations Human Rights Committee, 2018).

Under Iran’s legal system as well, the assassination of an official military figure of the state on the territory of a third country, without a declaration of war or formal state of hostilities, substantively falls within traditional jurisprudential and criminal law concepts such as *moharebeh* and *efsad fi al-ard* (Ahmadi, 2019; Hosseini, 2020; Torabi et al., 2019).

Accordingly, the assassination of Martyr General Soleimani, from the standpoint of international human rights law and the rules of international humanitarian law, constitutes a clear instance of arbitrary deprivation of life and a state-sponsored extrajudicial killing. It represents a flagrant violation of fundamental human rights principles and is susceptible to prosecution within both national and international legal systems (Gadimi et al., 2023; Hosseini, 2020; Rahimi, 2021).

4.2. Possibility of Analysis as a “Crime against Humanity”

Pursuant to Article 7 of the Statute of the International Criminal Court (Rome Statute), a crime against humanity is committed when one of the acts listed in Article 7(1)—including murder, torture, persecution, or other inhumane acts—is perpetrated “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack” (Rome Statute of the International Criminal Court, 1998; Schabas, 2017).

This definition requires the presence of two core elements:

1. A material element consisting of a widespread or systematic attack against a civilian population; and

2. A mental element consisting of the perpetrator’s knowledge that his or her acts form part of such a policy-based attack.

Authoritative interpretive materials on Article 7—such as prosecutorial submissions in cases like *Bemba* and reports of UN human rights bodies—emphasize that “attack” does not necessarily mean a military operation but encompasses any state or organizational policy that results in the repeated commission of serious crimes against civilians (Schabas, 2017).

In the Soleimani case, what could potentially be analyzed under the heading of crimes against humanity concerns dimensions beyond the single event of the assassination itself. If it could be demonstrated that this operation formed part of a broader policy of physically eliminating resistance figures or systematically undermining human rights norms in the region, certain elements of Article 7 might, in principle, become relevant. However, several significant obstacles exist:

- **The military status of the target:** Martyr Soleimani was a senior military and official representative of the Islamic Republic of Iran; he therefore does not straightforwardly fall within the notion of “civilian population.” The ICC has underlined in its case law that the civilian character of a person must be assessed based on their status at the time of the attack (Schabas, 2017).
- **Isolated nature of the incident:** The assassination of a single individual, standing alone and not clearly embedded within a pattern of similar acts arising from a general policy, cannot easily be characterized as a widespread or systematic attack.
- **Lack of publicly available evidence of a repeated targeted-killing policy:** At present, there is insufficient publicly accessible evidence establishing a coherent policy by the United States to systematically conduct extrajudicial targeted killings of high-ranking officials of third states in a manner that would satisfy the threshold of crimes against humanity (Fazaeli, 2020; Hosseini, 2020).

Therefore, characterizing the assassination of General Soleimani as a “crime against humanity” is currently contingent upon the discovery of further evidence concerning a broader policy of extrajudicial elimination

of resistance leaders and the demonstration of a link between this killing and a “systematic pattern against civilians.” For this reason, much of the existing literature tends to use formulations such as “unlawful extrajudicial killing” or “violation of the right to life under human rights law” to describe such acts (Fazaeli, 2020; Rahimi, 2021).

4.3. Domestic Classifications: *Moharebeh* and *Efsad fi al-Ard*

In Iranian criminal law, *moharebeh* and *efsad fi al-ard* are two key categories for addressing conduct that threatens public order and national security. Article 279 of the Islamic Penal Code defines *moharebeh* as taking up arms with the intent to create fear and terror in society, where the act is committed with the purpose of disrupting public security. Article 286, in turn, defines *efsad fi al-ard* as encompassing extensive activities that cause severe disruption of public order or widespread corruption.

In the case of the assassination of Martyr General Qasem Soleimani, legal assessment may gravitate toward classification under *efsad fi al-ard*, because the operation was not only a targeted killing of an official representative of the Islamic Republic of Iran but also had broad psychological and security repercussions domestically and in the region, and constituted an open threat to Iranian sovereignty and national security. Since the act was committed by a foreign state—the United States—and its consequences affected the general public and Iran’s security architecture, a purposive interpretation of the relevant provisions would make reliance on the title of *efsad fi al-ard* both possible and defensible under domestic law (Ahmadi, 2019; Hosseini, 2020; Noorbaha, 2019; Torabi et al., 2019).

5. Obstacles and Capacities for the Exercise of National Jurisdiction

Finally, we examine the practical legal, institutional, and diplomatic obstacles and capacities of the Islamic Republic of Iran in pursuing this case before domestic courts. Within this framework, recommendations are made to strengthen national mechanisms under the principle of complementarity and the responsibility of states toward international criminal justice.

5.1. Key Obstacles

One of the main challenges to the exercise of national jurisdiction over international crimes—especially in cases such as the assassination of Martyr General Soleimani—is the doctrine of foreign official immunity. Under international practice, high-ranking state officials enjoy two types of immunity: personal immunity, which applies during their term of office and shields them from criminal prosecution in foreign courts, and functional immunity, which covers official acts performed in the exercise of state functions and may continue even after they leave office. The judgment of the International Court of Justice in the *Arrest Warrant* case (Democratic Republic of the Congo v. Belgium, 2002) is a classic illustration of this principle (International Court of, 2002). Although the Pinochet litigation in the United Kingdom and subsequent developments have sought to carve out exceptions to these immunities—particularly for core international crimes—such considerations still pose serious legal obstacles to prosecuting specific individuals in national courts (Mégret, 2010; Schabas, 2017).

Furthermore, evidence collection in cross-border cases such as the U.S. drone operation on Iraqi territory presents numerous difficulties. Access to the crime scene, verification of documents or images published by foreign sources, and engagement with third states that may decline cooperation all complicate the proceedings. In such circumstances, effective use of international cooperation mechanisms—such as requests for mutual legal assistance and activation of INTERPOL Red Notices—becomes crucial. Yet successful reliance on these tools requires strict adherence to technical and legal standards governing the chain of custody and preservation and authentication of evidence (Asgari, 2022; Mahmoudi, 2020; Nouri, 2019).

Domestically, structural and procedural obstacles also exist. The absence of specialized chambers for international or transnational crimes, lack of consistency in judicial practice, and heavy caseloads in some courts can diminish the quality of legal analysis and undermine the coherence of decisions. In many instances, the absence of clear guidelines for adapting novel forms of criminality to existing domestic offenses (such as *moharebeh* or *efsad fi al-ard*) leads to fragmentation and hesitation in adjudication (Jahanbakhsh, 2022; Pourezat

et al., 2022; Rahimi, 2021). These obstacles underscore the need for structural reforms, adoption of specialized regulations, and enhancement of the technical and legal capacities of the judiciary.

5.2. Capacities and Strategies for Strengthening

One of the most important strengths for reinforcing national proceedings in international crime cases lies in the constitutional and procedural guarantees already embedded in the legal system of the Islamic Republic of Iran. Provisions such as the requirement of public hearings (Article 165 of the Constitution), the obligation to reason judicial decisions (Article 212 of the Criminal Procedure Code), and the right of appeal and review for the parties (Articles 427 and 428 of the same Code) form a threefold foundation of legitimacy, transparency, and access to justice in sensitive proceedings. These features can foster public confidence and international acceptability of judgments, particularly in high-profile cases such as the Soleimani assassination (Constitution of the Islamic Republic of Iran, 2017; Mirmohammadsadeghi, 2020; Safaei, 2013).

At the structural level, establishing specialized chambers for transnational and international crimes—supported by a “Legal Research Support Office,” a “Victim Support Unit,” and the appointment of “judicial-diplomatic liaison officers”—would significantly enhance the judiciary’s technical and coordination capacities. These units could work in close cooperation with bodies such as the Ministry of Foreign Affairs, the Ministry of Justice, and intelligence agencies to facilitate inter-institutional coordination in complex cases. Comparable structures have been adopted in the judicial systems of certain advanced jurisdictions, such as Germany and France (Hosseini, 2020; Jahanbakhsh, 2022; Rahimi, 2021).

In the realm of *in absentia* proceedings, drafting and implementing a clear protocol—including detailed checklists for international service of process, guaranteed rights of opposition and appeal, verification of evidentiary sufficiency and written reasoning, and protection of victims’ and witnesses’ rights—can bolster the legitimacy of such proceedings. Moreover, the public dissemination of summaries of judgments, both through domestic media and international fora, can help articulate the Islamic Republic of Iran’s legal narrative regarding the case (Abdollahi, 2021; Narimani, 2022; Sanei, 2019).

With regard to international cooperation, developing a standardized roadmap—including translated templates for mutual legal assistance requests, systematic activation of Red Notice procedures for suspects lacking immunity, and the creation of a bilingual (e.g., Persian–English or Arabic–English) evidence repository for engagement with international bodies—constitutes an essential toolkit. Comparative experience shows that preparedness in documentation and multilingual presentation of evidence greatly enhances the effectiveness of criminal follow-up (Asgari, 2022; Interpol, 2012; Mahmoudi, 2020; Nouri, 2019; Soleimani, 2021).

Alongside criminal proceedings, the use of complementary non-criminal measures is also important. Domestic legislation on sanctions and asset freezing targeting individuals involved in acts that violate national security or human rights can serve as an effective adjunct to criminal prosecution. This approach aligns with international instruments such as the UN General Assembly’s “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” (2005) (United Nations General Assembly, 2005). Deploying these tools not only generates legal and financial consequences for perpetrators but also demonstrates the judiciary’s commitment to multi-layered protection of victims’ rights (Gadimi et al., 2023; Rahimi, 2021).

6. Conclusion

The analytical examination of the assassination of Martyr General Qasem Soleimani, one of the highest-ranking military officials of the Islamic Republic of Iran, in light of international human rights instruments, domestic criminal law rules, and jurisprudential principles, shows that there are considerable legal and judicial capacities for pursuing this crime at the national level. An assessment of the jurisdictional structure of national courts and its comparison with the framework of the International Criminal Court indicates that the principle of complementarity of international jurisdiction emphasizes the primacy of the jurisdiction and responsibility of the victim’s home state. As long as the structure of proceedings at the national level satisfies procedural standards, judicial independence, and the

right to defense, recourse to international adjudication is not only unnecessary but may also, from both legal and political perspectives, be of lower priority.

In the course of analyzing domestic jurisdiction, it became clear that Iran's criminal justice system provides the necessary tools for exercising jurisdiction over this type of offense. The institutionalization of broad concepts such as *moharebeh*, *efsad fi al-ard*, and acts against national security within the legislative system facilitates the classification of criminal conduct in accordance with the particular circumstances of such crimes. Especially when the victim is an official, military figure with a national role in confronting regional threats, the nexus between the criminal act and the vital interests of the state strengthens the legal and political justification for domestic prosecution. This legal capacity will be meaningful only if the proceedings are accompanied by respect for procedural principles, meticulous documentation, and adequate legal reasoning.

At the level of international law, the conceptual analysis of the current situation shows that relying exclusively on notions such as crimes against humanity or war crimes may, due to strict requirements and difficulties in proving specific elements, be of limited effectiveness. In contrast, documenting a serious violation of the right to life, combined with the absence of any transparent judicial process on the part of the perpetrators, provides a clearer avenue for legal pursuit.

From an intellectual and cultural standpoint, a discursive analysis of jurisprudential sources and Islamic legal teachings indicates that the Iranian legal system, at the level of penal philosophy, recognizes a heightened responsibility in relation to crimes of this nature—particularly where the victim is regarded as a symbol of national security and regional resistance. Within this framework, criminal prosecution is not only a legal obligation but also part of the ethical and strategic responsibility of the state.

Ultimately, the synthesis of findings from the analysis of legal instruments, the review of judicial practice, and the study of prior research suggests that judicial pursuit of this crime before national courts—while respecting the requirements of international law—is feasible, legitimate, and even preferable to other options. Achieving this objective depends on institutional determination, the provision of appropriate procedural

and legal infrastructures, and the purposeful use of domestic and international legal capacities. Such an approach not only constitutes a legal response to a grave crime, but can also contribute to redefining the role of national law within the architecture of global criminal justice.

Authors' Contributions

Authors contributed equally to this article.

Declaration

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

Transparency Statement

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

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