



## International Relations in the Perspective of Fiqh Al-Siyasah\*

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### Abstract

This article analyses the concept and practice of international relations according to *fiqh al-siyasah*, which is related to war and peace, international law, diplomacy, and international cooperation. This study emphasises the normative concept of international relations (*al-'alâqât al-dauliyyah*) using international relations studies and international law. Thus, the sources of data or information in this study are the Quran, Hadis, the opinions of Muslim scholars (ulama) and theories of international relations and international law. Since the beginning, Islam has provided guidelines on relations between groups and kingdoms, which in today's context refer to international relations. In addition to the principles of international relations, the Quran and Hadith also provide normative references, which the Muslim scholars formulated as international law. Philosophically, there is a difference between secular international law and Islamic law derived from revelation understood by contextual *ijtihad*. However, at present, the majority of Muslim scholars believe that, in general, there is compatibility between the principles of modern international law and the principles of Islamic law, especially in the form of agreements (*uhûd* and *mawâtsiq*), customs (*'âdât*), and ratio (*'aql*), which also recognised by Islamic law.

**Keywords:** International Relations; International Law; *Fiqh al-Siyâsah*; Diplomacy.

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## A. INTRODUCTION

Prophet Muhammad was not only a prophet who received a message from God to convey Islam to humankind but also a head of state, judge, and war commander. Prophet Muhammad carried out all these teachings, mainly since he and his companions migrated to Yathrib in 622 AD and established a city-state called Medina. To build a safe and peaceful state of Medina, the Prophet made agreements (*al-mīthaq*) with the indigenous population, both those who had converted to Islam (the Ansar) and those who still adhered to the Jewish religion, which was the majority of Medina's population at that time. This agreement was formulated in the form of the Charter of Medina (*Sahīfah Madīnah*), which is also known as the Constitution of Medina (*Dustūr al-Madīnah*). This charter considers being the world's first written constitution (Muhammad Hamidullah, 1975) The Prophet also conducted diplomacy among others in the form of peace building (*al-sulh*) in order to resolve disputes or conflicts, as well as correspondence with rulers in several regions.

The Muslim scholars (*ulamas*) then made *ijtihad* to formulate Islamic teachings on intergroup relations in the form of principles and norms. Grouping at the time was based on differences in the tribe (*qabilah*) and religion, in addition to the power of a dynasty or empire such as the Byzantine (Eastern Roman) and Sasanid (Persian) empires. In the prophetic period and the period of the *mujtahidûn*, there was no concept of the nation-state as it occurs in this modern era. Hence, at that time, there was no concept of international relations. *The nation-state* is "a territorially bounded sovereign polity-i.e., a state that ruled in the name of a community of citizens who identify as a nation". ([www.britannica.com](http://www.britannica.com)). This concept has only emerged since the Treaty of Westphalia in 1648, which recognises the sovereignty of each country. Interdependence and competition between one nation and another are getting bigger, so every country now has a policy on international relations, and this field has developed into a separate discipline. The *Oxford English Dictionary* defines international relations as "How two or more countries interact and respect each other, especially in political, economic, or cultural relations". (*Oxford English Dictionary*, in [www.lexico.com](http://www.lexico.com))

Meanwhile, Merriam-Webster defines international relations as "a branch of political science concerned with relations between nations and primarily with foreign policy". International relations initially emphasised world governments' relations, emphasising international politics. However, in the last few decades, especially in the era of globalisation, international relations have developed, not only by state actors but also by non-state actors, such as community

organisations, non-governmental organisations (NGOs), and professional organisations. ([www.merriam-webster.com](http://www.merriam-webster.com))

In the contemporary society and state, some Muslim scholars have tried to formulate thoughts, laws, and theories about international law that align with Islam as part of contemporary *fiqh al-siyâsah*. This formulation still refers to the verses of the Quran and Hadith as the primary source, accompanied by contextual reinterpretation of both because the socio-political context at this time has changed and is different from the time of the Prophet. In addition, they also made efforts to make these Islamic principles and laws sources of international law and international relations theory. However, some Muslim scholars need to follow the development of existing international law and the *fiqh* of the past. ([Al-Bahji & Al-Masri, 2017, 217-218](#)) At the same time, since a few decades ago, there have been several cases of terrorism in the name of jihad carried out by some Islamic groups, which has led to some assumptions that Islam is a violent religion that does not support peaceful international relations.

Based on the description above, the problem statement in this article is how is the concept of *fiqh al-siyâsah* on international relations. At the same time, the aim is to describe and analyse the concept and practice of international relations according to *fiqh al-siyâsah*, related to war and peace, international law, diplomacy, and international cooperation. The topic of this article is a study of international relations (*al-'alâqât al-dauliyyah*) from the perspective of *fiqh al-siyâsah*, which theoretically includes foreign policy (*al-siyâsah al-khârijiyyah*). ([Khallaf, 2015](#)) This study uses international relations theories and international law as approaches. Thus, the sources of data or information in this study are the Quran, Hadith, and the opinions of Muslim scholars as well as theories of international relations and international law.

## B. METHODS

This study used qualitative research with a literature approach. This method aims to examine international relations from the perspective of *fiqh al-siyasah*, a branch of science in Islam that discusses political and governmental governance based on sharia principles. The qualitative method was chosen because this study focuses on analysing concepts, interpretation of texts, and meanings contained in *fiqh al-siyasah* and how these concepts can be applied in international relations.

This method does not rely on quantitative data or numbers, but rather on an in-depth exploration of relevant Islamic ideas, norms, and values. The

literature approach is used to collect data from various written sources such as classical fiqh books, academic journals, books, articles, and documents related to international relations from an Islamic perspective. These sources are critically analyzed to find principles that can be applied in the practice of modern international relations, such as justice, peace, and cooperation between countries. With this approach, the study not only provides a strong theoretical foundation but also explores the relevance of fiqh al-siyasah in responding to global challenges in the field of international relations.

## C. RESULTS AND DISCUSSION

### 1. Principles of War and Peace

War and peace have occurred in the life of humankind since the beginning of group life, including in the context of international relations. According to *Oxford Learner's Dictionaries*, war means among other things: (a) a situation in which two or more countries or groups of people fight against each other over some time, (b) a situation in which there is aggressive competition between groups, companies, countries, etc., and (c) war (against/on somebody/something) a fight or an effort over a long time to get rid of or stop something unpleasant. ([www.oxfordlearnersdictionaries.com](http://www.oxfordlearnersdictionaries.com))

According to the *Oxford English Dictionary*, the word "peace" means, among other things: (a) freedom from civil unrest or disorder; public order and security, (b) freedom from quarrels or dissension between individuals (or, esp. in early use, between an individual and God); a state of friendliness; amity, concord, (c) freedom from anxiety, disturbance (emotional, mental, or spiritual), or inner conflict; calm, tranquillity, (d) freedom from, absence of, or cessation of war or hostilities; the condition or state of a nation or community in which it is not at war with another; peacetime, and (e) an agreement, ratification, or treaty of peace between two nations, communities, etc., who were previously at war. ([www.oed.com](http://www.oed.com))

Indeed, people do not always live in a situation of war or peace because there are also situations of tension and disputes between groups or countries and cases of violence. However, it cannot be called a situation of war and not a situation of peace. Ideally, humans want a peaceful situation, but in reality, conflict and war have always appeared in the history of humankind since ancient times until now. From the perspective of international relations studies, this description of war and peace is related to the three theories or schools in international relations, namely realism, liberalism, and constructivism.

Proponents of liberalism, also called utopian or idealist theory, view humans as good beings and believe that peace and harmony between nations are achievable and desirable. In contrast, ([McGlinchey, 2017](#)) proponents of realism, which emphasises the concept of power, see the world's reality as Thomas Hobbes described, namely that humans live in a disorderly state of nature, which he regards as a war of all against all. To overcome this, some scholars promoted the idea of a "social contract" between the authorities and people to maintain the state of order in a particular country. Since there was no such contract and no ruler in charge of the world internationally, there was chaos and fear in organising international relations. For the realists, humanity lives in a system of "international anarchy", so for them, war seems to be more common than peace. ([McGlinchey, et al., \(eds.\), 2017](#))

Constructivism is a theory usually seen as a middle way between the abovementioned theories. Its proponents (constructivists) highlight the importance of shared values and interests between individuals interacting globally. They interact on the world stage and accept international anarchy as a defining principle that has become part of the world's reality. However, international anarchy can be replaced by a different system if influential groups of other individuals (and through their state representatives) accept the new idea. Understanding constructivism means understanding that ideas or norms have power, and their proponents are trying to learn the process that allows the norms to be replaced by new norms that are better. ([McGlinchey, et al., \(eds.\), 2017](#))

Some of these theories are inseparable from the events in Europe before the Treaty of Westphalia in 1648, which was characterised by 30 years of conflict and war involving major empires for various reasons. The Treaty of Westphalia marked the emergence of the recognition of sovereignty as a guarantee and arbiter of territory. Hence, peace is described as the balance of power between adjoining territorial units that could pose a possible threat to the other. ([Richmond & Oliver, 2008](#)); ([Viotti, et al., 2012](#)) This treaty was the starting point for developing modern state systems and international relations that promoted peace. It was realised primarily with the establishment of the League of Nations (LBB) in 1920 after World War I, which was later replaced by the United Nations (UN) in 1945 after World War II.

As a world organisation, the existence of the UN is inseparable from these three theories. The UN Security Council, for example, is at the heart of the theory of realism, as the five permanent members of the Council - the US, Russia, China, France and the UK - are the victors of World War II and wield great power, especially in the form of veto rights. ([Engel & Pallas, 2015](#))

The General Assembly, on the other hand, embodies the theory of liberalism, as it promotes international peace and security. It is also responsible for political cooperation, including the development of international law and "promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realisation of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" (UN Charter Article 13). ([Engel & Pallas, 2015, 5](#)) In reality, the theory of constructionism also occurs in the UN, manifested in the form of norm-making and using force in humanitarian interventions. It has changed understandings of universal human rights, gender, and expectations on states to protect their civilians. ([Engel & Pallas, 2015](#))

The primary mission of establishing the UN is stated in Article 1, paragraph 1 of the UN Charter, namely (1) maintaining international peace and security, (2) developing friendly relations among nations based on respect for the principles of equal rights and self-determination, (3) creating international cooperation in solving international problems of an economic, social, cultural, or humanitarian nature, and (4) It is becoming a centre for harmonising the actions of nations in achieving common goals. Through the Security Council, the UN is primarily tasked with maintaining global peace and world security (global security) and protecting human security. Meanwhile, the principles of the UN, as stated in Article 2 of the UN Charter, promote the sovereign equality of all its members and the settlement of international disputes by peaceful means.

## 2. War and Peace in Islam

Islam comes from the word "*salima*", which means safe, secure, and peaceful, because this religion brings the concept of salvation in this world and the hereafter. Safety in the world takes the form of peace in society and the state. Islam also means "*sallama*", which means surrender, because people who enter Islam have surrendered to Allah to get inner peace. Because of the great attention of Islam to this peace, the expression of greeting (*tahiyyah*) in Islam also reads "*Al-Salâm 'alaikum*", which means "Peace to you all". Therefore, Muhammad Abd al-Ghaffar Ahmad Badawi wrote a book entitled "*Al-Islâm Dîn al- Salâm*" (*Islam the Religion of Peace*). ([Badawi, 2001](#))

However, as is the case among social scientists, there are also differences of opinion among Muslim scholars about the basic rule of relationship between Muslims and non-Muslims, which can be developed into theories of international relations. The first opinion states that the basic rule of relationship between

Muslims and non-Muslims is war or hostility, while the second states is that the basic rule is peace. (Al-Qaradawi, 2009) Besides, there is a third opinion, which states that the basic rules of the relationship between Muslims and non-Muslims are based on the principles of international relations prevailing when they live. (Khallaf, 2015) As is known, at this time, as mentioned in the UN Charter, all countries have committed to building world peace as a new norm that replaces old norms of international relations in the past.

The hostile relationship (*al-'alâqah al-'adâ'iyyah*) is similar to the theory of realism, namely that in line with the reality in the past, the relationship between groups was based on war or hostility so that in order to build a peaceful relationship (*al-'alâqah al-silmiyyah*) between groups, a peace agreement is needed which in *fiqh* is called *mu'âhadah*. The principle of peaceful relations is also similar to the theory of liberalism, which idealises conditions of peace and harmony. Meanwhile, the principle that refers to prevailing international law is similar to the theory of constructivism, which emphasises the strength of shared norms between nations that can control their relationships. The difference is, that the theory put forward by international relations scientists is more empirical. At the same time, the views of the Muslim scholars are more normative even though their *ijtihad* is also influenced by the socio-political context they face. Each of the scholars' opinions above refers to the arguments of the Al-Quran and Hadith but with different understandings due to differences in understanding the social context of the revelation of the Al-Quran (*asbâb al-nuzûl*) and the emergence of Hadith (*asbâb al-wurûd*).

### 3. Hostile Relationship (*al-'Alâqah al-'Adâ'iyyah*)

Supporters of the first opinion, namely the hostile relationship, say Islam invites non-Muslims (infidels) to convert to Islam, but if they refuse, they must be fought. (Khallaf, 2015) According to this opinion, this relationship is a form of offensive jihad (*al-jihâd al-hujûmî*), which then produces a legal maxim that the basic rule of relationship between Muslims and non-Muslims is war or hostility (*al-asl fî al-'alâqah bain al-muslimîn wa ghairhim al-qitâl*). This first opinion is based, among others, on the following verses that are understood literally without regard to the context of the verse's revelation (*asbâb al-nuzûl*), namely:

- a. Q.S. Al-Anfal: 39: "And fight them, that there may be no fitnah and that religion may be for Allah alone. If they cease (from disbelief), then surely Allah is All-Seeing of what they do." Shaykh Muhammad bin Abdul Wahhab understands this verse as an obligation to wage offensive war not



only against the polytheists of Mecca but also against all disbelievers and those Muslims who commit or are perceived to commit acts of polytheism. This verse indicates an order of offensive war (*al-hurûb al-hujûmiyyah*). However, when viewed from its *asbâb al-nuzûl*, this verse indicates a defensive war action (*al-hurûb al-difâ'iyah*) due to attacks (*hirâbah*). This verse indicates an order of offensive war (*al-hurûb al-hujûmiyyah*), but when viewed from its *asbâb al-nuzûl*, this verse indicates a defensive war action (*al-hurûb al-difâ'iyah*) due to attacks (*hirâbah*) carried out by the Meccan polytheists ([Wahab, 1437, 7](#))

- b. Q.S. Al-Taubah: 5: "But once the Sacred Months have passed, kill the polytheists 'who violated their treaties' wherever you find them, capture them, besiege them, and wait for them in every way. However, if they repent, perform prayers, and pay alms-tax, set them free. Indeed, Allah is All-Forgiving, Most Merciful." In his paper entitled *Lais al-Jihâd li al-Difâ Faqat* (Jihad is not only for Defensive), Shaykh Abdul Aziz bin Abdullah bin Baz understands Q.S. Al-Taubah: 5 above as evidence that jihad in Islamic law is not only defensive but also offensive. (Al-Imam Ibn Baz, 1443 H)
- c. Q.S. Al-Taubah: 29: "Fight those who believe neither in Allah nor in the Last Day, and do not forbid what Allah and His Messenger have forbidden, and do not believe in the true religion (the religion of Allah) (i.e. those) to whom the Book was given until they pay the *jizyah* obediently as they were in a state of submission. Sayyid Qutb understands. This verse is a proposition to fight all existing polytheists offensively without paying attention to the context of the verse's revelation. ([Qutb, 1979](#))
- d. Q.S. Al-Taubah: 73: "O Prophet, strive (against) the disbelievers and the hypocrites, and be severe with them. Their place is Jahannam, and that is the worst of returns." Like Q.S. Al-Taubah: 4 and 29, Shaykh Abdul Aziz bin Abdullah bin Baz understands Q.S. Al-Taubah: 73 as an offensive jihad war. ([Ibn Baz, 27](#))

In addition to the verses above, several Hadiths textually indicate offensive war against non-Muslims, for example: "I have been commanded to fight people until they testify that there is no God. God besides Allah and that Muhammad is the Messenger of Allah, as well as establishing prayer and paying zakat" (H.R. Bukhari-Muslim).

In the past, most Muslim scholars supported the principle of hostile relationships, which was inseparable from the conditions of inter-group



relationships at that time, which were based on conflict, hostility, and war. On the contrary, currently, only the hard-liners Muslim scholars or groups support this opinion, which means supporting an offensive jihad. They are, among others, the founder of the Salafi/Wahabi sect, Shaykh Muhammad bin Abdul Wahhab and Sayyid Qutb. This offensive jihad ideology was later adopted by several Islamic movements, most notably Tanzim al-Qaeda, founded by Abdullah Azzam in 1998 and the Islamic State of Iraq and Sham (IS), founded by Abu Bakr al-Baghdadi in 2012, which is a splinter of Al-Qaeda promoting a caliphate system and definitive area of jihad. Currently, there are several Muslim scholars who still fully adhere to the opinions of past Muslim scholars regarding the principle of hostile relations. Not because they are followers of jihadi groups but because they do not follow contemporary developments of *ijtihad* in *fiqh al-siyâsah*, which has made changes in terms of relations between groups and between nations.

#### 4. Peaceful Relationship (*al-'Alâqah al-Silmiyyah*)

Supporters of the second opinion, namely the principle of peaceful relationship, are the opinions of the majority of Muslim scholars and intellectuals today who conduct *ijtihad* in this field, such as Abdul Wahhab Khallaf, Sa'id Ramadan al-Buti, and Wahbah Zuhaili. This principle of peace is reflected in the mission of Islam as "*rahmah li al-'âlamîn*" (blessing for the universe), stipulated in Q.S. Al- Anbiya': 107: "And We have not sent you but to be a mercy to the universe." Islam was revealed as a mercy not only for Muslim but also for humankind and all creatures in the universe. This principle is also in line with Allah's command for humans consisting of various tribes and nations to recognise and cooperate, as mentioned in Q.S. Al-Hujurat: 13: "O people, indeed We created you from a man and a woman, and made you into nations and tribes that you may know one another. Verily, Allah knows best." In terms of *da'wah*, according to Wahbah Zuhaili, the mission of Islam must be socialised throughout the world, and the *ummah* must be a role model for the world community by conducting good relations with all world communities, including with non-Muslims, through peace treaties. ([Al-Zuhaili, 2000](#))

Thus, the basic rule of relationship between Muslims and non-Muslims is peace (*al-asl fi al-'alaqah bain al-muslimîn wa ghairhim al-silm*). Hostile relationship occurs if the non-Muslim side first attacks (*hirâbah*) against Muslims. Islam does not prohibit Muslims from having good relationships with non-Muslims, as mentioned in Q.S. Al-Mumtahinah: 8: "Allah does not forbid you to be kind and

just to those who do not fight you for religion nor expel you from your land. Indeed, Allah loves those who are just."

Islam indeed justifies war as a part of the jihad that is obligatory for Muslims, but the war is essentially a defensive action (*difa'iyah*), not an offensive one (*hujûmiyyah*). War is something that Islam initially prohibited but later permitted because of the attacks of other parties against the Muslims, as mentioned in Q.S. Al-Hajj: 39: "It is permitted (to fight) for those who are being fought against, for indeed they have been wronged." Q.S. Baqarah reinforces this: 190: "Fight for the sake of Allah those who fight you, (but) do not exceed the limit, for indeed Allah does not like those who exceed the limit." The verses on war found in Q.S. Al-Anfal: 39 and Q.S. Al-Taubah: 5, 29, and 73 mentioned above literally show the meaning of war offensively. However, when viewed from *asbâb al-nuzûl*, these verses indicate that all wars ordered by Allah are defensive. The Q.S. Al-Anfal: 39 mentioned above was revealed in 2 AH (624 AD) as a reaction to the slander, cruelty, and torture committed by the Meccan infidels, who even attacked the Muslims after they migrated to Medina. ([Al-Maraghi, 1946](#))

While Q.S. Al-Taubah: 1-5 above was revealed in the 9 AH, one year after the conquest of Mecca (Fath Makkah) in the 8 AH (628 AD). Because the polytheists of Mecca often violated the agreements, in the 9 AH, Allah cancelled the agreement and allowed the Muslims to fight against them, except Banu Dhamurah and Banu Kinanah, who consistently obeyed the agreements. Previously, namely in the 6th year H (626 AD), the Prophet Muhammad and the Muslims, numbering around 1,400 people, left for Mecca to perform the pilgrimage.

However, the Meccan polytheists prevented the Prophet's entourage from entering the city of Mecca and asked the Prophet and his entourage to return to Medina. Although some of the companions initially objected, the Prophet was willing to make the Hudaibiyyah Treaty with the polytheists. The agreement stated that the Prophet and the Muslims had to return to Medina but could come again to Mecca to perform the pilgrimage the following year and could stay peacefully for three days without weapons except for sheathed swords. ([Al-Maraghi, 1946, 50-52](#))

Meanwhile, the Q.S. Al-Taubah: 29 mentioned above was revealed to be related to the Tabuk expedition in the 9 AH. The failure of the Byzantine (Eastern Roman) forces to defeat the Islamic army in the Battle of Mu'tah in the 8 AH angered Emperor Heraclius. He intended to attack the Prophet Muhammad and the Muslims again by preparing a strong army of more than 200,000 men to the Tabuk expedition to besiege Madinah. ([Al-Maraghi, 1946, 91-92](#))

The Byzantine army had moved into the northern region of the Arabian Peninsula, conquered Iraq, Egypt, and Damascus, and then created a defense base in the Palestinian Peninsula. Due to the movement of the Byzantine army, the Prophet Muhammad, on the orders of Allah, devised a strategy to block them at Tabuk so that they would not reach Medina. However, after hearing that the Muslim army had arrived at Tabuk, the Byzantine soldiers were afraid and left the Arabian Peninsula, so the war did not occur. Thus, the order of this war shows a defensive war (*difâ'iyah*), but Yusuf al-Qaradawi called the event a preventive war (*wiqâ'iyah*). ([Al-Qaradawi, 2009, 289](#))

To understand the Hadith "I was ordered to fight against humans" above, it is necessary to know about the background of the emergence of the Hadith (*asbâb al-wurûd*), but there is no information explaining this. Regardless of the differences of opinion among hadith scholars (*muhaddithûn*) about the status of this Hadith. There are no actual hadith (*hadîth fi'li*) which show that the Prophet fought offensively against unbelievers or Jews and Christians. Muslim scholars today generally understand that this Hadith addresses the polytheists who attacked the Muslims first. Sa'id Ramadan al-Buti, in his book, *Al-Jihâd fî al-Islâm*, says that the '*illah* (reasoning) of jihad war against the disbelievers is because of their attacks (*hirâbah*) against Muslims, not because of their disbelief. ([Al-Buti, 1997, 52-53](#))

## 5. Prevailing Principles of International Relations

The third opinion is similar to the second opinion with a slight difference in argumentation, namely that the relationship between Muslims and non-Muslims is based on current principles of international relations. In this context, as noted by Abdul Wahhab Khallaf, Islam tends towards peace, not war; and therefore, it is not permissible to fight someone simply because he is not Muslim. The Quranic verses indicate that the Muslims were allowed to fight against the Meccan infidels or the Jews and Christians because the Muslims were subjected to various kinds of torment, obstacles, trials and temptations from them, as mentioned in Q.S. Al-Hajj: 39: "Permitted (to fight) for those who are oppressed, for surely they are oppressed. Moreover, indeed Allah can help them." The permission for war is also mentioned in Q.S. Al-Baqarah 190-193: "And fight in the cause of Allah those who fight you, but do not exceed the limit. Indeed, Allah does not like those who transgress the limits."<sup>30</sup> Although Islam permits war, it provides ethical (moral) guidelines on the practice of war. ([Khallâf, 2015, 63](#))

In addition, Muslim scholars also argue that the call (*da'wah*) to Islam must be carried out with a sympathetic and wise speech, not done by force because this religious issue is based on heart belief, not by the sword, as mentioned in Q.S. Al-Baqarah: 256, namely: "*Lâ ikrâh fi al-dîn*", there is no compulsion to enter Islam, so there is no reason to fight non-Muslims and force them to enter Islam. ([Khallâf, 2015, 63](#)) In addition, Muslim scholars also argue that *da'wah* to Islam must be carried out with a sympathetic and wise speech, not done by force because this religious issue is based on heart belief, not by the sword, as mentioned in Q.S. Al-Baqarah: 256, namely: "*Lâ ikrâh fi al-dîn*", there is no compulsion to enter Islam, so there is no reason to fight non-Muslims and force them to enter Islam. ([Hishâm, 1990, 234](#))

The above opinion arises because there has been a difference in the pattern of intergroup relationships between the past and the present. In the past, relationships were generally based on the principle of conflict or war. Therefore, when someone left and entered another group, he was considered a traitor and an enemy who had to be killed. This is shown, for example, in the case of Farwah bin Amir al-Judzami, the governor of the Ma'an region, who converted to Islam but was later arrested and killed on the orders of the Byzantine rulers. Peaceful relationship occurs if there is an agreement (*mîthâq* or *'ahd*) between one group and another. This agreement is also mentioned in Q.S. Al-Nisa': 90: "except those who seek refuge with a people between whom you and that people have made a covenant (of peace) or those who come to you while their hearts are troubled to fight you and fight their people."

On the contrary, the basic rule of international relations is peace, as mentioned in the UN Charter above. Therefore, Muslims are obliged to support this peace, based on Q.S. Al-Anfal: 61 above: "And if they (the enemy) incline to peace then incline to it and put your trust in Allah. Indeed He is the All-Hearing, the All-Knowing". This verse indicates that the relationship between Muslims and non-Muslims is established on the principle of reciprocity, a principle of international relations that prevails today.

Thus, there has been a change in thinking about international relations in Islam, described by a Palestinian intellectual, Raja A. Bahlul, in his Book, *From Jihad to Peaceful Co-existence*. ([Bahlul, 2003](#)) Many Muslim scholars have made new *ijtihad* in terms of relationships between Muslims and non-Muslims or between Muslim states and non-Muslim states by responding to current norms of intergroup relationships and international relations based on the principle of peace. Several Muslim scholars still hold the principle of hostility in intergroup relationships, which may be because they still hold the opinions of the scholars

of the past and do not perform *ijtihad* contextually or because they support jihadism or "Islamic fundamentalism".

With the new *ijtihad*, the terms in the division of *dâr al-Islam* (Islamic territory), *dâr al-harb* (territory of war), and *dâr al-'ahd* (territory of treaty) mentioned above are no longer used at this time. Nowadays, the proper classification is a Muslim majority country and a Muslim minority country. These non-Muslim minority countries could be Christian-majority countries, Catholic-majority countries, Hindu-majority countries, Buddhist-majority countries, atheist countries, and others. Under this principle of peaceful co-existence, Muslim countries can cooperate mutually with non-Muslim countries.

## 6. International Law

Every person and every nation has the desire to coexist peacefully. However, due to interests or passions, some groups of nations are ambitious to have great power by doing everything possible to obtain it, so rules are needed that can bind all countries in the world. These rules are referred to as international law. Paragraph 53 of the Vienna Convention on the Law of Treaties in 1969 states: "International law is a norm accepted and recognised by the international community of States as a whole as a norm from which no derogation permitted and which can be modified only by a subsequent norm of general international law having the same character." Thus, international law is a set of rules that apply to all countries and must be obeyed by them.

However, there are differences in the effectiveness of international law between the school of realism, which is sceptical of the effectiveness of this international law, and the school of liberalism, which positively views the role and urgency of this international law. (Andrew Heywood, 2015, 240) Apart from the debate about its effectiveness, it is clear that international law remains a reference for resolving disputes and international issues in many cases. The UN Charter and various international law treaties have repeatedly affirmed the binding force of international law. ([Widagdo, 2019, 110-113](#))

According to Andrew Heywood, states generally comply with international law for a variety of reasons, most notably: (1) Self-interest and reciprocity, (2) Fear of disorder, (3) fear of isolation, and (4) Identification with international norms. (Andrew Heywood, 2015, 337) According to article 38:1 of the Statute of the International Court of Justice (ICJ), the sources of international law are (1) international conventions, (2) international customs, (3) the general principles of law recognised by civilized nations, and (4) judicial decisions and

the teachings of the most highly qualified publicists of the various nations. International treaties and agreements are the primary sources, while others are supplementary. These agreements include conventions, treaties, statutes, declarations, covenants, protocols, and understandings. ([Widagdo, 2019, 53](#))

The problem is that not all countries ratify all the agreements made, either because the agreements are deemed incompatible with the constitution and culture of a particular country or because the politics of government in a country are not democratic. This happens because, with this ratification, a country is willing to be bound by and accept the rights and obligations arising from the agreement.

The Al-Quran and Hadith mention many provisions or principles of inter-group law, which can now be called international law. Muslim scholars then made *ijtihad* to formulate these provisions by considering the time's social and political context. They divided the world territories into three territories, namely Islamic territory (*dâr al-Islâm*), infidel territory with the status of war (*dâr al-harb*), and infidel territory with the status of peace (*dâr al-'ahd*). Muhammad bin Hasan al-Shaibani referred to this topic as "siyar" (meaning journey) as described in his book *Kitâb al-Siyar al-Kabîr*. ([Al-Shaibani, 1992](#)) This international law was practised in the Al-Khulafa' al-Rashidun period, the Umayyad Dynasty, the Abbasid Dynasty, and the periods after them.

Indeed, there is a slight difference between international law, which is secular in nature and Islamic law, which originates from revelation and is developed in the *ijtihad* of Muslim scholars. However, at present, most Muslim scholars believe that, in general, there is conformity between modern international law and Islamic law principles, especially in the form of agreements, customs and ratios, which are also recognised by Islamic law. From the perspective of *fiqh al-siyâsah* (Islamic constitutional law), the role of agreements (*al-'uhûd and mawâthiq*) is crucial, especially in bringing about peace and coexistence between groups and between nations. This is confirmed in Q.S. Al-Nisa': 90: "except those who seek refuge with a people, between whom you and that people have made a (peace) treaty or those who come to you. At the same time, their hearts are troubled to fight you or fight their people," and Q.S. Al-Taubah: 4: "Except those polytheists with whom you have made a covenant, and they have not diminished the covenant in the least, nor have they helped anyone against you; so fulfil your covenant with them until the time limit."

Agreements entered into by a Muslim or a Muslim country, either with fellow Muslims or with non-Muslims, are binding according to religion. Nowadays, international agreements are the primary source of international law,

so this international law binds Muslim countries, especially agreements ratified by a particular Muslim country. According to Wahbah Zuhaili, an agreement in Islam is not just a piece of paper to deceive the enemy, a cover for the implementation of specific personal goals, a slogan for the strong to impose their authority, nor for the creation of unjust peace that is not based on truth and justice. On the contrary, agreements or treaties in Islam are protected from betrayal, deception, and oppression. The Quran commands people to fulfil covenants as mentioned in Q.S. Al-Maidah: 1: "O you who believe, fulfil your promises". ([Al-Zuhaili, 2000](#)) Thus, international agreements in the perspective of Islamic law are called *al-mîtsâq al-'âlamî*, which must be obeyed like other agreements.

In addition, the position of Islamic law as a religious law followed by civilized nations is one of the sources of international law. Among the Islamic rules adopted by international law is the law on asylum and refugees. It has been mentioned in Q.S. Al-Taubah: 6: "And if any of the polytheists seeks refuge with you, then protect him so that he may hear the word of Allah, then lead him to a place where it is safe for him." In the context of current international relations, this verse implies that a refugee who seeks asylum in a particular country is entitled to protection from the government of that country. ([El-Wafa, 2009](#))

International law includes legal principles and substance, both private and public. The substance of law develops in line with developments and problems faced by the world's nations, including the law of the sea, environmental law, treaty law, humanitarian law, protection of human rights, and so on. The important legal principles and norms in international law are state sovereignty and peaceful settlement of international disputes, as described below.

#### **a). State sovereignty**

State sovereignty, explicitly stated in Article 2, paragraph 1 of the UN Charter, is the supreme and undeniable principle of power, which is reflected in the claim by the state as the sole legislator in its territory. This sovereignty includes two things, namely external sovereignty and internal sovereignty. External sovereignty (sometimes called "state sovereignty" or "national sovereignty") refers to the capacity of a state to act independently and autonomously on the world stage. This implies that states are legally equal and that territorial integrity and political independence are inviolable. Meanwhile, internal sovereignty refers to the location of the supreme power/authority within a state. ([Heywood, 2015](#); [Al-Bahjî & al-Masri, 2017](#)) However, not all states have their sovereignty recognised by other states, especially new states, due to



occupation, conquest, separation from the mother state, or surrender of territory to another state.

Islamic law recognises the sovereignty of a state based on the provisions of existing international law. This recognition resulted in a state's legal rights and obligations, including being a legal subject which has an equal position with other countries worldwide. Recognition of state sovereignty also means that Islam justifies the nation-state system (*al-daulah al-wataniyyah*) as a substitute for the caliphate system. The concept of nation-state aligns with Islamic law, as Q.S. Al-Hujurat: 13 mentions: "O humankind, indeed We created you from a man and a woman and made you into nations and tribes that you may know one another. Verily, Allah knows best."

The verse above shows that the grouping of humans in the form of tribes and nations is a *sunnah Allah* (natural law), which cannot be changed. *Ta'âruf* in verse means knowing each other, and this will be realised if it is accompanied by *i'tirâf*, which implies recognition of the existence of other groups and nations. The system of nation-states followed by all countries today is essentially the development and formalisation of this verse in the modern era. The verse also contains the meaning of mutual recognition of the sovereignty of each country and cooperation between nations in the world that are diverse, be it nationality, race, ethnicity, religion, politics, and others.

#### **b). Peaceful Settlement of Disputes**

Another important international law principle and norm is the peaceful settlement of disputes, as mentioned in Article 2, paragraph 3 of the UN Charter. This provision is essential because each country has its national interests or ambitions, which sometimes differ or even conflict between one country and another. This can lead to disputes between them, but international law always considers its fundamental purpose of maintaining peace. Techniques for handling interstate conflicts cover two categories, namely diplomacy and judicial procedures. The first involves attempts to resolve differences, either by the conflicting parties themselves or with the help of other entities using discussion and fact-finding methods. Meanwhile, court procedures involve the determination by disinterested third parties of the legal and factual issues involved, either through arbitration or the decisions of judicial bodies. ([Shaw, 2008](#))

Islam supports peaceful settlement of disputes (*fadd al-munâza'ât*) through the two methods above. The settlement through diplomacy is based on Q.S. Al-Anfal: 61: "And if they incline to peace, then accept it and put your trust in Allah.

Indeed, He is All-Hearing, All-Knowing." Whereas settlement through arbitration (*tahkīm*) or court is based on Q.S. Al-Hujurat: 9: "And if there are two groups of those who believe in war, let you reconcile between them." (Qasim Khidhair Abbas, 2006, 200) Empirically, the Prophet Muhammad has done dispute resolution in the form of a peace agreement (*sulh*), such as the Hudaibiyah treaty, which is a peace agreement between the Prophet and the polytheists of Mecca in 8 AH. Similarly, the al-Khulafa' al-Rasyidun also did it, for example, the Aelia Agreement, which is an agreement between the caliph Umar bin Khattab and the inhabitants of Jerusalem in 15 AH. The Treaty of Hudaibiyah occurred on the rejection of the Meccan infidels to the Prophet's and Muslims to enter the city of Mecca. Instead, the Prophet and the Muslims were asked to return to Medina and may come to Mecca next year. Meanwhile, the Treaty of Aelia occurred because of the victory of the Muslims over the conquest of Jerusalem, but the caliph Umar gave freedom to its inhabitants to remain in this city of Jerusalem. The Aelia treaty was considered a very advanced treaty at that time, because as head of state Umar had provided guarantees and protection for other religious groups living in his territory, namely Christians, Jews and Zoroastrians.

Currently, dispute resolution through diplomacy can take the form of negotiations (*mufāwadah*) between the two disputing countries/parties or mediation (*wisâtah*) by a third party. While settlements through courts are carried out by the International Court of Justice or investigations by a special or investigative committee established by the United Nations. (Mansur, 1971) The International Court of Justice is the principal judicial organ of the United Nations (UN), which was established in June 1945 under Article 7 of the UN Charter and began operating in April 1946. The role of this Court is to resolve legal disputes submitted by member states and to provide opinions on legal questions put to him by authorised special agencies and bodies. ([www.icj-cij.org/en/court](http://www.icj-cij.org/en/court)).

## 7. The Role of Diplomacy

To avoid or resolve disputes (conflicts) between one country and another, good relations and communication between countries are needed, which is called "diplomacy". Diplomacy is a means for allies to cooperate and for enemies to resolve conflicts without military force. Several countries communicate, negotiate, influence each other, and adjust their differences through formal or informal diplomacy. Formal diplomacy is a system of official communication between countries regularly, including exchanging ambassadors, maintaining embassies in foreign capitals, sending messages through officially accredited

envoys, participating in conferences, and other direct negotiations. ([O'Callaghan, 2002](#))

Diplomacy aims to advance a country's national interests while maintaining international order, which means a country uses diplomacy to get what it wants without causing hostility from other countries. With this goal, diplomacy has three functions. First, diplomacy functions to collect intelligence data, image management, and policy implementation. For example, an embassy collects information on the thinking of local political leaders, the local economy, the state of local culture, and the nature of political opposition to predict internal problems and anticipate changes in foreign policy. Second, diplomacy builds a favourable image of the country, and modern communication makes it possible to form positive perceptions and attitudes worldwide. Third, diplomacy functions to implement state policies. In this context, diplomats manage their country's foreign programs by negotiating security issues, facilitating foreign investment and trade, overseeing the distribution of economic aid, and providing information and technical assistance. ([Griffith & O'Callaghan, 2002](#))

In line with the development of the concept of international relations, namely from interstate relations to global community relations, the concept of diplomacy has also developed significantly. Diplomatic activities are now carried out by state officials and professional diplomats, international organisations, civil society organisations, the media, and so on. ([Bakry, 2017](#)) Several countries are now promoting this public diplomacy to socialise state policies, which allow the people or public of a country to communicate directly with overseas publics related to various fields, especially education and culture.

In the perspective of *fiqh al-siyâsah*, diplomacy (*mujâmalah dauliyyah*) is part of Islamic teachings, as stipulated in Q.S. Al-Hujurat: 13 mentioned above, namely that humans were created in various tribes and nations so that they know each other (*ta'âruf*). By getting to know each other, they recognize the existence of other nations and countries, which becomes an asset in cooperation in realizing a peaceful and prosperous world. This attitude of knowing each other will not materialise if done with rudeness and arrogance, but must be with a wise and polite speech (*mau'izah hasanah*), by Q.S. Al-Nakhl: 125. The Prophet's letters to the kings and dignitaries outside Medina, such as the letter to Heraclius, are also expressed subtly. ([Abbas, 2006](#))

The Prophet Muhammad carried out these diplomatic tasks, namely when he arrived in Medina lobbied the existing tribal leaders to build a Medinan state and drafted the Medina Charter as a charter of peace, which was later also called the Medina Constitution. The Prophet sent envoys to several kings and tribal

leaders and conveyed messages to them. News of his envoys was well known to the people of the East Roman (Byzantine), Persian, Abyssinian, Ghassan and Yemen. In addition, he also received friendly envoys of kings and tribes who came to him, such as the envoy of the Ethiopian king and the envoy of Al-Muqauqis of Egypt. The Prophet respected them, treated them well, and protected them. He also listened to the messages they brought and did not harm them, even though the messages they brought were not good. This shows that the Prophet acknowledged the principle of diplomatic immunity for ambassadors or diplomats, which has now become the main principle in international relations. ([Habash, 2013](#))

In addition, Islam also teaches diplomacy ethics as part of Islamic teachings, both in the form of possessing praiseworthy traits and avoiding reprehensible traits. Ethical values include fairness, tolerance, honesty, and mutual respect, while bad ethics include tyranny, hostility, lies, arrogance, and egoism. ([Abbas, 2006](#)) With these ethical values, bilateral and multilateral diplomacy is carried out by prioritising dialogue, compromise, and not imposing will. With this ethic, the problems faced, whether in a particular country or many countries, can be resolved peacefully for world peace. On the other hand, with these ethics, a country can easily cooperate with other countries to accelerate development in their respective countries in economic, political and socio-cultural fields.

#### D. CONCLUSION

From the description above, it can be concluded that since the beginning, Islam has provided guidelines regarding relations between groups and between kingdoms, which in the present context are referred to as international relations. In contemporary times, the majority of Muslim scholars (ulamas) are of the opinion that the basic rule of this relationship is peaceful co-existence. The basic rule of hostile relations is only supported by Puritan and fundamentalist ulamas, such as Shaykh Muhammad bin Abdul Wahhab, Sayyid Qutb, and Taqiyuddin al-Nabhani. Besides, the principle of hostile relations is also supported by Islamic movements whose ideology is Salafi Jihadi, namely Al-Qaeda, which Abdullah Azzam founded, and the Islamic State of Iraq and Syria (ISIS), which Abu Bakr Al-Baghdadi founded as a splinter of Al-Qaeda.

In addition to the principles of international relations, the Al-Quran and Hadith also provide normative references formulated by Muslim scholars in international law. In this case, there has been a significant development in the *ijtihad* in the modern era, which differs in several respects from the *ijtihad* of the

classical period. Indeed, there are differences between international law, which is secular, and Islamic law, which originates from revelation accompanied by contextual *ijtihad*. However, at present time the majority of scholars think that in general, there is compatibility between the principles of modern international law and the principles of Islamic law, especially in the form of agreements (*'uhûd* and *mawâthiq*), customs (*'âdât*), and ratio (*'aql*), which are also recognised by Islamic law.

In international relations, Islam also promotes the principle of *ta'âruf* (knowing each other) and *mujâmalah dauliyyah* (international diplomacy) as part of Islamic teachings. The Prophet Muhammad had carried out these diplomatic tasks, among others by sending envoys to kings and tribal leaders and conducting correspondence with them. He also received in a friendly manner the envoys of the kings and tribes who came to him, such as the envoy of the Ethiopian king and the envoy of Al-Muqauqis of Egypt. With these ethical values, diplomacy from an Islamic perspective is carried out by promoting dialogue and compromise and not imposing will.

In the future, Muslim scholars and intellectuals must continue developing ideas about international relations and international law from an Islamic perspective as one of the theories of international relations and sources for the formation of modern international law. In addition, the concept of international relations in Islam needs to be socialised and practised by governments and diplomats in Muslim countries as well as Muslims throughout the world. This is expected to eliminate the negative perceptions of some non-Muslims as well as to refute the opinions of some Islamic scholars and groups that Islam is a religion that supports violence and war. With international relations and intensive diplomacy, Muslim communities and leaders can actively formulate world order and solve global problems to realise a just and peaceful world.

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