

**International Treaties (*Mu'âhadât*) in Islam: Theory and Practice in Light of Islamic International Law (*Siyar*) according to Orthodox Schools**

*Labeeb Ahmed Bsoul*

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In the post-9/11 era and with increasing tension between the Islamic and the non-Islamic worlds due to al-Qa'ida's purported global jihad, Labeeb Bsoul's study of the Islamic law of international treaties is certainly a timely contribution to an important topic. While this work represents a fairly comprehensive resource for researchers in this area insofar as it gathers the opinions of numerous pre-modern (and some modern) scholars of Islamic law on various issues related to war and peace between Islamic and non-Muslim states, it is, unfortunately, no more than a simple compilation of their views. Indeed, the author provides no meaningful historical framework by which

one could trace doctrinal development or tie these doctrines to a wider historical or philosophical tradition of international law. Those looking for answers regarding the possibilities for mutual co-existence between Muslim and non-Muslim states on the basis of mutual equality will be severely disappointed.

The book consists of four chapters. The first chapter, which provides a general overview of Islamic international law, deals with such questions as the origin of the term *siyar*; the earliest Muslim writers of *siyar*; the sources of Islamic international law; the concept of an Islamic state (*dar al-Islam*) and a non-Islamic state(s) (*dar al-harb*); and the relationships between the two, which, as a default matter, he asserts is one of peace. This default relationship of peace, however, is at best tenuous, since, at least according to the sources cited, it reverts to one of war if a group of non-Muslims rejects Islam, unless that group accepts the status of a “protected person” and pays a “protection tax” (*jizyah*) to the Islamic state.

The second chapter examines the legal relation between the Islamic state and two groups of non-Muslims that may be present in Islamic territory: (1) protected people (*ahl al-dhimmah* or *dhimmi[s]*), non-Muslims who reside there permanently under the Islamic state’s protection in exchange for paying the *jizyah*, and (2) transient non-Muslims (*ahl al-aman*; e.g., traders, diplomats, students, and pilgrims) who have a covenant of safe passage.

The third chapter discusses the rules governing agreements between Islamic and non-Islamic states, and the fourth chapter studies five different treaties: Prophet Muhammad’s Treaty of Hudaibiyah with the Quraysh; Caliph Abd al-Malik ibn Marwan’s treaty with Emperor Justinian II of Byzantium (70/689), Caliph Harun al-Rashid’s treaty with Empress Irene of Byzantium (187/802), al-Malik al-Kamil’s treaty with Fredrick II (625/1229), and Sulayman the Magnificent’s treaty with King Francis I of France (942/1535).

There is little of substance to quarrel with regarding the substance of the first three chapters, for Bsoul does a workman-like job of surveying the various opinions of Muslim jurists on the various topics he covers. But as mentioned previously, little context is given to these doctrines and they are not placed in any larger interpretive framework.

His concluding chapter, which was intended to illustrate the Muslim practice of diplomacy, is even more disappointing. It is not at all clear why he selected two treaties, those of Abd al-Malik ibn Marwan and Harun al-Rashid, even though he recognizes that the literary sources do not preserve the details of either one. He therefore is forced to rely on historians’ descriptions of their terms. A Mamluk-era work such as al-Qalqashandi’s *Subh al-*

*A`sha*, which is included in his bibliography, purports to include the texts of numerous treaties executed during the Mamluk and Ayyubid periods, as well as those from earlier periods, such as Abbasid-Byzantine treaties and those between the Spain's Muslim rulers and their Spanish Catholic counterparts. Ottoman-era diplomacy is even more richly documented – a recent monograph devoted solely to Ottoman-Polish diplomatic agreements from the fifteenth through the eighteenth centuries, which included the texts of dozens of Ottoman-Polish agreements conducted during this period, for example, has recently been published.

It is a shame that the author did not spend more time analyzing the substance of this rich diplomatic history instead of focusing so much on each agreement's historical circumstances, as if he were trying to defend the good intentions of the Muslim rulers who executed those treaties, rather than to providing a detached analysis of their detailed terms. Had he done so, I believe he could have argued that Muslim diplomacy with non-Muslim powers entailed more than merely Machiavellian calculations of political advantage, as appears to be the case in his analysis. Instead, he could have traced the emergence of a truly international customary law that bound both Muslim and non-Muslim powers.

Finally, I cannot conclude my review without mentioning the innumerable spelling, stylistic, and grammatical errors in the text. While a certain amount of such errors may be acceptable from the pen of an author whose native language is not English, in this case the manuscript does not appear to have received the benefits of even a limited copyediting. The recurrence of linguistic errors on virtually every page of the book substantially detracts from its readability.

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