PORT HARCOURT
LAW JOURNAL

From Learning to Wisdom

Volume 6: Number 1, April, 2017 **ISSN: 1595 – 1790**

Published by Faculty of Law
Rivers State University, Port Harcourt, Nigeria

Libyan civil law. The application of siyar was made even more explicit Mahmassani applied specific Qur'anic provisions promoting the sanctity treaties) in international relations (i.e. the claim of illegal expropriat multinational company against a State).

The lessons that can be learnt from LIAMCO are significant. Althou arbitrator, the case highlighted the possible complementary between Islami public international law. The case also opened an alternative channel f application of Islamic law to commercial matters in an international settin the case breaks the myth that modern application of Islamic law is confined t by personal law, an idea that seems to prevail in the context of domestic l fluidity in the importation of norms outside of the constitutional limits of Muslim States, in international relations. Since LIAMCO concerned a claim t had been involved in illegal expropriation, the jurisprudence of the case co cases involving internationalised contracts between States and i jurisprudential expansion can be trumped by the formative influence domes international law that is based on State practice, the sources of which inclu The domestic law of a Muslim Nation State can be completely secular wher of that State prevents the application of Islamic law in its legal system. In su potential of Islamic law (siyar) being institutionalized via general principles 38(1)(c), will be minimised or even exterminated. Nevertheless, the secu framework of a Muslim Nation State may not preclude the executive branc negotiate a dispute settlement arrangement which incorporates siyar as pa law in settling disputes with another State or a non-State entity. Debate legislature should be involved in the process may ensue but, as discussed bel to enter into treaties with any party of their choice.It will be on Muslim Na siyar into practice via general principles of law. Those States can settle themselves or between themselves and multinational corporations throug stipulate in the terms of reference that the arbitrator will apply among other of Nations (siyar). Such a move, which is evident in LIAMCOis in international law. Article 33 of the Permanent Court of Arbitration Op Arbitrating Disputes between Two States provides that the arbitral tribunal sh chosen by the parties. Finally, siyar can be institutionalized by way of a mentioned as a source of international law in Article 38(1)(a). Since legitimac law is based on consent, Muslim Nation States are at liberty to enter int incorporates siyar principles so long as the treaty does go against a pere general international law (jus cogens). Of course, there can be resistance fr have a strong secular tradition among their ruling elites. In such situations, treaties that incorporate siyar principles to be negotiated and concluded in le like international economic law and environmental law.

Conclusion

The importation or institutionalisation of siyar principles into dealings with c modern world will also correct the misconceptions about Islamic warfare as

is a formal source of international law. The issue now is whether a 'siyaric' Muslim State practice can transform into an international custom. In order for a State practice to advance into a custom, hence binding the whole international community, the practice must be consistent and general. It must also pass the test of time. Finally, there must be a sense of conviction on the part of the States to consider the practice as binding law. Since there are only about 50 UN Members from the Muslim world,[70] it is difficult for a Muslim State's 'siyaric' practice to be common to a significant number of States which constitute the whole international community, hence failing to meet the conditions of international custom, in particular generality of practice. Based on jurisprudence in *The Asylum case*[71], regional customs can bind States within a particular region provided that the elements of state practice and opinion juris[72] are fulfilled within such a regional context. Because the Muslim world can be considered a region, hence a siyaric Muslim State practice can evolve into a regional practice. Siyar can play a role in a rather 'preventive' way vis-a-vis international customs. It can be a factor preventing the establishment of customary international law or even a jus cogens[73] in the area of human rights. Certain human rights treaties particularly the CEDAW[74], have taken an intrusive approach requiring State parties to change contradictory laws and practices, including Islamic law. A uniform position can be taken by Muslim Nation States against such intrusions by not being a party or making reservations to such treaties. In fact, taking such a position might possibly lead to the creation of an Islamic regional custom on human rights. Then siyar may also be institutionalised via general principles of law recognised by civilised nations. General principles of law as spelt out in Article 38(1)(c) can be construed as principles of major legal systems of the world. A more inclusive approach to interpreting such a provision means that, as a requirement, the relevance of its recognition by civilised nations has been put to question, if confined to Western nations. A more popular interpretation of the provision, however, is in favour of the inclusive approach, hence the possible inclusion of Islamic law into the ambit of general principles of law. The International Law Association (ILA) has embarked on a program that discusses the role of Islamic law in international law.

Such a program is part of a broader initiative to understand the different intellectual and religious traditions which have a bearing on international law and relations. One particular case has already indicated the acceptance of siyar in international relations today. In *Libyan American Oil Co. (LIAMCO) v Libya*[75]; Arbitrator Mahmassani allowed Islamic law to be included in the definition of the term "general principles of international law" in Article 38.The principles of Libyan civil law were considered part of the world's major legal systems and Islamic law was recognised as one of the sources of

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[70] Some of which include; Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates, Yemen.

[71] The Asylum case (Colombia v. Peru), ICJ Reports 1950, p. 266.

[72] Opinion of law

Islam in Makkah. The Prophet even dealt diligently with the non-Mus
of a Muslim to maltreat a non-Muslim and accommodated the non-M
The wars fought by the Muslims in the lifetime of the prophet such as
of Uhud and Battle of Khandaq occurred in an effort to put a stop to
and suppression by the Quraish i.e non-Muslims. In addition to this, th
the Treaty of Hudaibiyyah so as to achieve peace and peaceful co
Muslims and non-Muslims which was later achieved and paved way f
acknowledgement of the beauty in the religion and also, boosted the
Muslims to Islam.

The Messenger (S.A.W) also sent ambassadors to foreign head
letters calling the foreign Heads of State to embrace Islam. While this
Messenger (S.A.W) begot friendly relations with Abyssinia, Egypt, Ba
received hostile responses from the Roman and Persian Empires. A
killed the Messenger's ambassador, in violation of the general rule of
were inviolable. The killing led to the Battle of Mutah between the Ro
Later the Romans planned to invade Medina secretly but returned afte
that the Messenger (S.A.W) was on his way to Tabūk to confront them.
tore the Messenger's letter inviting him to embrace Islam and ordered o
to lead an army to Medina to arrest the Messenger (S.A.W) but th
materialise when the governor himself embraced Islam upon arri
Relations between Medina and Abyssinia were good. In the second
Messenger (S.A.W) sent a diplomat to Abyssinia to establish diplomatic
Madinah and Abyssinia. In the sixth year of Hijrah, the Messenger (S.
ambassador carrying a letter calling Negus, the King of Abyssinia to em
embraced Islam but his kingdom remained a Christian State.

The Way Forward

In the present situation, all Muslim Nation States are memb
Nations (UN), and the UN Charter prohibits Member States from resc
use of force except in cases of self-defence is not contrary to the obligati
is exclusively defensive. Nevertheless, there is another important legal
from the Prophetic tradition in the context of the Constitution of Medin
Constitution provides that the peace of the Believers is indivisible, i.e.
separate peace when the Believers are fighting in the path of Allah.
conditions must be fair and equitable to all. It is submitted that, if a
aggresses against a Muslim State, then that aggression must be conside
against all Muslim States regardless of their location. The other Muslim
neither to side with the aggressor nor to uphold a neutral position but
aggrieved Muslim State in its defense against the aggressor.

In the consideration of possible ways to institutionalise
contemporary society, the present authors rely on Article 38 of th

CamScanner

Termed the 'Hyderabad Declaration', it stated that "Islam rejects all kinds of un violence, breach of peace, bloodshed, murder and plunder and does not allow it in form".[64]The International Islamic Fiqh Academy, a subsidiary organisation of Organisation of Islamic Cooperation, issued a declaration at its meeting in June 2 regarding the position of Islam on extremism and terrorism. It reaffirmed that all form terrorism are criminal acts and considered haram or forbidden under Islamic law, whet it is directly carrying out a terrorist act or indirect support or participation for such an and whether the act is carried out by an individual, group or state.[65]In July 2005, She Muhammad Afifi Al-Akiti from the Oxford Centre for Islamic Studies, published a fat condemning the targeting of innocents by terrorists, entitled Defending the Transgres by Censuring the Reckless Against the Killing of Civilians (Mudafi' al-Mazlum bi-Ra al-Muhamil 'alaQital Man La Yuqatil) in response to the July 2005 London bombings.[July 2005, the Fiqh Council of North America issued a fatwa against terrorism, affirm Islam's absolute condemnation of terrorism and religious extremism.[67]The Saudi Arab Council of Senior Scholars convened in May 2003 and issued a fatwa concerning suic bombings and terrorism. It reiterated that those who commit these acts are contraveni Islamic law, and terrorism constitutes 'corruption on the earth' and a destruction of liv wealth and belongings that are protected by Islamic law.[68]

The Basis for War in Islam

According to Quran, the reason for fighting against the enemy must be ratio and just. Islamic law does not allow war for the purposes of invasion or aggression but preventative reasons such as providing the security of life, property; protecting rights a liberties; suppressing the enemy attacks. The principles of war in Islam include; princi of a justified war, fairness, discipline, peace and good treatment of war prisoners.[69]Proph Muhammad (peace be on him) whose behavior and character serves as a recommend guideline on how Muslims should conduct their affairs, never resulted to war or violen in order to oppress anyone. During the early days of Islam, rather than level war or pl a deposition against the non-Muslims; the Prophet migrated from Makkah Madinahbecause he and his followers were faced with various hardships in practici

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[64]On May 31, 2008, thousands of Islamic clerics and madrassa teachers from across India converged in the Indi capital of New Delhi for the Anti-Terrorism and Global Peace Conference, held by the Jamiat Ulema-e-Hi (Assembly of Indian Clerics), a countrywide network of Islamic scholars. The conference issued an anti-terroris fatwa, which is being called the world's first unequivocal fatwa against Islamic terror.

[65]Islamic Fiqh Academy is an Academy for advanced study of Islam based in Jeddah, Saudi Arabia.

[66]Dato' Dr Afifi al-Akiti, also known as ShaykhAfifi is the KFAS (Kuwait Foundation for Advanced Sciences) Fellow Islamic Studies at the Oxford Centre for Islamic Studies. He is also the Islamic Centre Lecturer in Islamic Studies the Faculty of Theology, University of Oxford, and is a Fellow of Worcester College, Oxford. He is the first Malay be appointed to such a position in this university. Elsewhere, he is a visiting professor of Universiti Teknologi MAR in Malaysia. He has also received widespread media recognition across the globe.

[67]The Fiqh Council of North America is an association of Muslims who interpret Islamic law on the North Americ continent.

[68] The Council of Senior Scholars, also known as the Senior Council of Ulema is the Kingdom of Saudi Arabi highest religious body, and advises the king on religious matters.

Therefore, Muslims resort to war in order to preserve human
This means that going into wars is not performed out of personal intere
but rather, wars are conducted for human value and general interest. In
these are some of the reasons why Muslims or a Muslim state may law

- When there is a threat on the lives of Muslims.
- In order to respond to aggression and assault of one Muslim Muslim group.
- Fighting those who block up roads and raise their weapons on to oppress them or loot their money.
- In order to protect the homeland and assist persecuted Muslim world.
- When Muslims are being prevented from practising their religio the Shari'ah.

The Reactions of Muslim Leaders and Scholars on Islamic Terrorism

Muslims learn war ethics and values that are implanted in Shari'ah and its guidelines for conducting war fares. Islam raises M knights and noble warriors instead of training them to be blood hungry Islam prohibit terrorism and condemn unwarranted violence and blooc of fact, a number of Muslim scholars and leaders from all parts o repeatedly condemned terrorism and issued Islamic legal rulings terrorism and terrorism related acts. Many of these directly respond to of terrorism in which civilians were targeted by extremists claiming to Islam.[61] For example; In March 2010, Sheikh Muhammad Tahir-ul Pakistani cleric, published a 600-page Fatwa on Terrorism and S endorsed by Al-Azhar University, which prohibited killing Muslim civilians and destroying property and places of worship.[62] The fatwa unlawfulness of imposing Islam on non-Muslims, and that the only p Islam to change a government is through peaceful and legal means. In Islamic Supreme Council of Canada issued a fatwa against terrorism si American Imams, declaring that attacks on Canada and the United State will be an attack on 10 million Muslims living in North America, and af Canadian and American Muslim has a duty to protect their country individual attempting to harm Canadians or Americans.[63]In November Indian Muslim clerics approved a fatwa against terrorism at a confere

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[60]http://islam.ru/en/content/story/war-islam-ethics-rules accessed on 3 February 2017.

[61]http://arts.unimelb.edu.au/nceis/welcome/national-imams-consultative-forum/rulings-a accessed on 3 February 2017.

[62] Muhammad Tahir-ul-Qadriis a Pakistani politician and Islamic scholar of Sufism. He w

rudely to the Holy Prophet. Afterwards, he used to say: "Never did I have doubt (abou the truth of Islam) since my acceptance of Islam except on that day (of Hudaibiyyah)"

After three days' stay at Hudaibiyyah, the Muslims returned to Medina. On the way back, Surah 48 titled "The Victory" was revealed. It described the treaty as an open victory for the Muslims. Later events confirmed that it was really a great victory for them. Till then, idolaters and Muslims had not been mixing with each other. By virtue of this treaty, they started doing so freely. On account of their family relationships and trade connections, the Makkans started visiting Medina, and many of them stayed there for months. In this way, they were getting acquainted with the teachings of Islam and were deeply impressed by the righteous conduct and moral integrity of the Muslims. The Muslims of Medina who were visiting Mecca left behind them similar impressions. The result was that the Makkans were themselves attracted to Islam and many of them embraced the new religion. It is recorded that during the two years following this treaty, more people accepted Islam than during the whole nineteen years since the inception of the mission.[49]The Hudaibiyya treaty, negotiated between the beloved prophet Muhammad (peace be on him) and the Makkans in the year 628 CE, was the first treaty in Islam and has been touted as an exemplary authoritative source and precedent for international agreements between Muslims and non-Muslims.

Among other teachings pertaining to the conduct of Muslims in times of war, the Prophet Muhammad (SAW) instructed.his soldiers:

"Do not kill any child, any woman, or any elder or sick person."[50]
"Do not practice treachery or mutilation."[51]
"Do not uproot or burn palms or cut down fruitful trees.[52]
"Do not slaughter a sheep or a cow or a camel, except for food."[53]
"If one fights his brother, [he must] avoid striking the face, for God created him in the image of Adam." [54]
"Do not kill the monks in monasteries, and do not kill those sitting in places of worship."[55]
"Do not destroy the villages and towns, do not spoil the cultivated fields and gardens, and do not slaughter the cattle."[56]
"Do not wish for an encounter with the enemy; pray to God to grant you security; but when you [are forced to] encounter them, exercise patience."[57]
"No one may punish with fire except the Lord of Fire."[58]
"Accustom yourselves to do good if people do good, and to not do wrong even if they commit evil."[59]

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[49]https://www.al-islam.org/life-muhammad-prophet-sayyid-saeed-akhtar-rizvi/battles accessed on 3 February 2017.
[50]Sunan Abu Dawud.
[51]Al-Muwatta' Malik 21.3.9.
[52]*Ibid.*
[53]*Ibid.*
[54]*Ibid.*
[55]Musnad Ahmad IbnHanbalpg. 697.
[56]*Ibid.*
[57]*Ibid.*
[58]*Ibid.*

UrwahibnRuwaim reported:

I saw Abu Umamah Al-Bahili greet with peace whomever he would me Muslims and non-Muslim citizens and he would say:

هِيَتَحِيَّةٌلِأَهْلِمِلَّتِنَاوَأَمَانٌلِأَهْلِذِمَّتِنَاوَاسْمٌمِنْأَسْمَاءِاللَّهِنُفْشِيهِبَيْنَنَا

This is the greeting for the people of our religion, an assurance of security for the of our covenant, and the name among the names of Allah that we spread betwe

Ibn Al-Qayyim said:

The Prophet never forced the religion upon anyone, but rather he only fough who waged war against him and fought him first. As for those who made pea him or conducted a truce, then he never fought them and he never compelled enter his religion.[47]

Ibn Al-Qayyim also said:

Fighting is only necessary to confront war and not to confront unl reason, women and children are not killed, neither are the elderly, the bli who do not participate in fighting. Rather, we only fight those who wage w This was the way of the Messenger of Allah, peace and blessings be upon people of the earth. He would fight those who declared war on him until his religion, or they proposed a peace treaty, or they came under his cont tribute.[48]

There is no doubt that during the lifetime of the beloved prophe (peace be on him), he engaged in several battles and encounters in a bid t religion of Islam and to promote tranquillity among the Muslims and the One of which was the peace treaty of Hudaibiyyah. The treaty of Hudaib important event that took place during the early days of Islam. It represente a negotiation between Prophet Muhammad (peace be on him), representi Medina i.e. Muslims, and the Quraysh tribe of Mecca i.e. non-Muslims in D AH) whereby the following terms were reached:

The Muslims should return to Medina that year without perform pilgrimage. They could return the next year but their stay should not exce The Muslims should not bring any arms with them except sheathed swords be no war between the Quraish and the Muslims for ten years. Muslims resi would not be allowed to migrate to Medina, but if any Muslim wanted to s he should not be prevented from doing so. Any idolater or Makkan Muslir Medina without the permission of his clan will be sent back to Mecca, bu Medina going back to Mecca without permission will not be allowed to ret in Arabia will be free to join any of the parties to the pact, and the allies also by this treaty.

Although these terms were apparently disadvantageous to the Prophet accepted them. No sooner had the terms been agreed upon than a cr

The best of God's servants are those who, when seen, remind one of God; and the worst of God's servants are those who carry tales about to do mischief and separate friends, and seek for the defects of the good.[40]

Abu Huraira reported: The Messenger of Allah, peace and blessings be upon hir said:

لَاتَدْخُلُونَالْجَنَّةَحَتَّىتُؤْمِنُواوَلَاتُؤْمِنُواحَتَّىتَحَابُّوااَوَلَاأَدُلُّكُمْعَلَىشَيْءٍإِذَافَعَلْتُمُوهُتَحَابَبْتُمْأَفْشُوا السَّلَامَبَيْنَكُمْ

You will not enter Paradise until you believe and you will not believe until you love each other. Shall I show you something that, if you did, you other? Spread peace between yourselves.[41]

Abdullah Ibn Umar reported:
A man asked the Messenger of Allah, peace and blessings be upon him, "Which Islam best?" The Prophet said:

تُطْعِمُالطَّعَامَوَتَقْرَأُالسَّلَامَعَلَىمَنْعَرَفْتَوَمَنْلَمْتَعْرِفْ

To feed the hungry and to greet with peace those you know and those you do not know.[42]

AmmaribnYasir, may Allah be pleased with him, said:

ثَلَاثٌمَنْجَمَعَهُنَّفَقَدْجَمَعَالْإِيمَانَالْإِنْصَافُمِنْنَفْسِكَوَبَذْلُالسَّلَامِلِلْعَالَمِوَالْإِنْفَاقُمِنَالْإِقْتَارِ

Whoever has three qualities together will have gathered the faith: equity with yourself, offering peace to the world, and spending from small amounts.[43]

Ali ibn Abu Talib reported:
The Messenger of Allah, peace and blessings be upon him, said:

إِنَّهُسَيَكُونُبَعْدِيخَتِلَافٌأَوْأَمْرٌفَإِنِاسْتَطَعْتَأَنْتَكُونَالسِّلْمَفَافْعَلْ

Verily, after me there will be conflicts or affairs, so if you are able to end them in peace, then do so.[44]

Abu Ad-Darda reported:
The Messenger of Allah, peace and blessings be upon him, said:

أَلَاأُخْبِرُكُمْبِأَفْضَلَمِنْدَرَجَةِالصِّيَامِوَالصَّلَاةِوَالصَّدَقَةِ

Shall I not tell you about what is more virtuous in degree than fasting, prayer, and charity?They said, Of course!" The Prophet said:

صَلَاحُذَاتِالْبَيْنِفَإِنَّفَسَادَذَاتِالْبَيْنِهِيَالْحَالِقَةُ

It is reconciliation between people. Verily, corrupted relations between people are the razor.

In another narration, the Prophet added:

هِيَالْحَالِقَةُلَاأَقُولُتَحْلِقُالشَّعَرَوَلَكِنْتَحْلِقُالدِّينَ

It is the razor. I do not say that it shaves hair, but rather it shaves the religion.[45]

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[40]Sahih al-Bukhari.
[41]Sahih Muslim 54.
[42]Sahih Muslim pg. 28
[43]Ibid.
[44]Imam Ahmad IbnHanbal, Musnadpg. 697, SunanIbnMajah 1334.
[45]Sunan at-Tirmidhipg. 2509.

O mankind! We created you from a single (pair) of a male and female, and made you know each other (not that ye may despise each other). Verily, the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things).[34]

In Q2:190-193, the verses specifically refer to fighting against oppression and in defence of religious freedom.

Fight in the cause of Allah those who fight you, but transgress not the limits. Truly, Allah likes not the transgressors". And kill them wherever you find them, and turn them out from where they have turned you out; for turmult and oppression are worse than slaughter, but fight them not at the Sacred Mosque, unless they (first) fight you there; but if they fight you, slay them. Such is the reward of those who suppress faith. But if they cease, Allah is Oft-forgiving, Most Merciful. And fight them on until there is no more turmult or oppression, and there prevail justice and faith in Allah; but if they cease, let there be no hostility except to those who practice oppression".[35]

so if they remove themselves from you and do not fight you and offer you peace, then Allah has not made for you a cause for fighting against them.[36]

"...if any one slew a person unless it be for murder or for spreading mischief in the land, it would be as if he slew the whole people; and if any one saved a life, it would be as if he saved the life of the whole people."[37]

Muslims do not and cannot have any problem with adherents of any other faith (be it Christianity, Judaism, Hinduism or even animism) or ideology (communism, capitalism, etc.), unless there is oppression committed by any. Of course, this assumes that Muslims themselves do not engage in practicing any oppression or injustice. Those who want to harm Muslims or cause general harm or injustice, Muslims (like any other people) would deal with them to resolve the problems and, if necessary, fight them, as the last resort. However, if the very same people desist and show inclination to peace, Muslims are duty bound to reciprocate for peace. The life and legacy of the Prophet Muhammad were guided by pursuit of justice and peace. Whenever people, Muslims or non-Muslims, take a verse in a fragmented manner, advertently or inadvertently, they commit serious error, or worse. By posing Islam to be violent while it guides us toward a balance in our life, we merely yield to and validate those fanatical and extremist fringes that use or abuse Islam for their extremist angles and agendas.[38]

According to the traditions of Prophet Muhammad (peace be on him);

A person asked, O Prophet of God, whose Islam is excellent or the best (afdal)? He replied: A perfect Muslim is one from whose tongue and hands mankind is safe".[39]

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[34]SuratulHujuraat verse 13.

[35]SuratulBaqarah verses 190-191.

[36]SuratulNisa verse 90.

times and under certain conditions.[29] This is explained in the Qur'an where All mentions that the essence of creation of mankind into different races, cultures a ethnicities is so that we may relate peacefully with one another and not hate one anoth thereby, appreciate the work of Allah.[30]

Textual Authorities on As-Siyar

Islamic International law, as earlier said, is based primarily on two fundament sources- the Qur'an and the Sunnah. Its rules have been developed in accordance with t conduct set by the Prophet Muhammad (peace be on him) with non-Muslims. The ter Siyar indicates the conduct of the Prophet in his international dealings and constitutes t basis on which the detailed rules were developed.

The Qur'an and Sunnah constitute the perennial sources of guidance for Muslin and represent the immutable core of the law which confers stability and continuity on t Islamic way of life in a world characterized by change. The Qur'an and Sunnah hav provided some fundamental principles to regulate the relationships between the Muslin and non-Muslims. A number of verses in the Qur'an express that the original an permanent nature of relationship between the Muslims and the non-Muslims is peace an understanding rather than war and hostility.[31]

In Q8:61, the Qur'an clearly requires that the Muslims should opt for peace as soon as t enemy opts for it;

> *"But if the enemy incline towards peace, do thou (also) incline towards peace, and trust in Allah: for He is One that heareth and knoweth (all things)".*[32]

The importance of this verse is that peace is the ultimate goal. It ought to be th ideal and norm that a society should seek. Islam insists that its adherents work and inclin toward peace.

In Q60:8-9, it encourages Muslims to be kind and generous to those who did n fight against the Muslims and did not treat them with injustice.

> *"Allah forbids you not, with regard to those who fight you, with regard to those who fight you not for (your) Faith nor drive you out of your homes, from dealing kindly and justly with them; for Allah loveth those who are just. Allah only forbids you, with regard to those who fight you for (your) Faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection). It is as such to them (in these circumstances), that do wrong."*[33]

In Q49:13, it shows that God's objective in creating the human race in differen communities was that they should relate to each other peacefully;

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[29] Ibid.

[30] In Surat Al-Hujuraat verse 13 Allah says, 'O mankind! We created you from a single (pair) of a male and female and made you into nations and tribes, that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things).

To Hamidullah , Muslim International law is that part of the law and custom of the land and treaty obligations which a Muslim de facto or de jure state observes in its dealings with other de facto or de jure states. Its ultimate sanction or authority is no different from any other branch of Muslim Law.[24]

Al-Ghunaimi defines Muslim International Law as;

> *The sum total of rules and practices which Islam ordains or tolerates in international relations.*

Imam Abu Zahrah, in his introduction to the SharhKitab al-Siyar al-Kabir defines Siyar as; the rules of jihad and war, and what is allowed in it and what is not, and the rules of (permanent) peace treaties and temporary truce, and the rules of who should be granted alien status and who should not, the rules of war booty, ransom and enslavement, as well as other problems that arise during wars and its aftermath. In short, it designates the rules of international relations between Muslims and other communities during peace and war, although most of the discussion is about war.[25]

To 'Abdul KarimZaydan, it is that set of norms and rules of Islamic law that are binding for the Muslim state in its relations with other states.[26]

The meaning of Sira in the sense of the Prophet's conduct and behavior is evident from his sayings. IbnHisham reports that, then the Prophet ordered Bilal to hand over the banner to him (AbdulrahmanIbn 'Awf). He did so. Then the Prophet eulogized Allah and asked for His mercy upon himself, then he said;

> *O son of Awf! Take it (the banner). Fight ye all in the path of God and combat those who do not believe in the path of God. Yet never commit a breach of trust, nor treachery, nor mutilate anybody nor kill any minor or woman. This is the demand of God and the conduct of His Messenger for your guidance.*[27]

This citation shows that conduct of the Prophet in time of war, especially as to what is relating to the intentions of combatants, objectives of going to war, and the various acts prohibited in war, were referred to as his Sira. However, there are other citations in which the term Sira is used to mean the conduct of the Prophet and his successors during peace time or their conduct in governance or in general. Imam Ahmad Ibn Hanbal reports that, "After the Prophet, AbuBakr became the Caliph and he acted according to his actions and adapted his behavior. Then 'Umar became Caliph, and he adapted the behavior of them both".[28]

Under the Islamic law, the relationship between individuals and nations is one of peace and peaceful co-existence. War is a contingency that becomes necessary at certain

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[24]Professor Muhammad Hamidullah is recognized as one of the most authoritative scholars in the research of Islamic International Law and Islamic Constitutional Law.

[25]Abu Zahrah, Introduction to SharhSiyar al-Kabir, Matbat Cairo University, p.33.

[26]'Abdul KarimZaydan, Majmu'ahBuhoosFiqhiah, Mu'assa al-Risala.Beirut, 1402, p.16.

[27]IbnHisham, Sirah, vol.2, p. 632. This hadith is also narrated by [illegible]

Arabic term connoting a *particular manner of conduct recorded in the biography of* exemplary person. It is used for the exemplary lives of saints, typically found in collecti biographies or biographical dictionaries, as well as for the history of political campaig It also includes the conduct of state in relation to other communities. The techni meaning acquired by the term in the second century of Islam, as popularized by t scholars of the *Hanafi jurisprudence, especially Muhammad ibn al-Hasan al-Shayba* includes the conduct of war, conduct of believers in their relations with non-believers enemy territory, and conduct of believers with whom they have entered into treatie Today the term refers generally to international law.[20]

The rules of Muslim international law have been developed in accordance wit the conduct or the 'model-example' set by the Prophet Muhammad (peace be on him) i his interaction with non-Muslims. The term, Siyar (plural of Sirah, which literally mean conduct or behavior) itself indicates that the conduct of the Prophet (peace be on him) i his international dealings and constitutes the basis on which the detailed rules of law wer developed. He fought battles with his enemies; sent envoys and emissaries and wrot letters to his contemporary rulers; received delegations; led his followers and himsel participated, in negotiating various treaties and agreements of international import, an dealt with the questions of booty, prisoners of war, and acquisition of the enemy property This entire conduct, coupled with the general principles laid down in the Qur'an provide the foundation for the branch of knowledge called Siyar.[21]

Shams Din Muhammad ibn Ahmadd Sarakhsi defined siyar as follows:

> *It describes the conduct of the believers in their relations with the unbelievers of enemy territory as well as with people with whom the believers had made treaties, who may have been temporarily (musta'mins) or permanently (Dhimmis) in Muslim lands; with apostates who were the worst of the unbelievers, since they abjured after they accepted Islam, and with rebels (baghis) who were not counted as unbelievers; though they were ignorant and their understanding of Islam was false.*[22]

According to JavaidRehman, he defines siyar as;

> *"aspects of Shari'ah regulating international law and the conduct of States towards each other" or "the relationship of Muslim communities with non-Muslim communities" .*[23]

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[20]The Oxford Dictionary of Islam, Oxford University Press ©2017.

[21]Kitab Al-Siyar Al-Saghir by Muhammad ibn al-Hasan al-Shaybani edited, translated and annonated by Mahmood Ahmad Ghazi ISLAMIC RESEARCH INSTITUTE INTERNATIONAL ISLAMIC UNIVERSITY ISLAMABAD - PAKISTAN

[22]Muhammad b. Ahmad b. AbiSahl Abu Bakr al- Sarakhsi was an Islamic scholar of the Hanafischool. He was traditionally known as Shams al-A'imma (the sun of the leaders). His opinions on law have been widely cited and he has been thought of as a distinctive writer.

[23]Professor JavaidRehman is an internationally recognized legal scholar from Pakistan and an expert on Islamic Law, Muslim constitutionalism and international human rights law[23]Kitab Al-Siyar Al-Saghir by Muhammad ibn al-Hasan al-Shaybani edited, translated and annonated by Mahmood Ahmad Ghazi ISLAMIC RESEARCH INSTITUTE INTERNATIONAL ISLAMIC UNIVERSITY ISLAMABAD - PAKISTAN

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[23]Professor JavaidRehman is an internationally

The Connection between Shari'ah and the Concept of As-Siyar

In Arabic, Shari'ah means "the clear, well-trodden path to water". The linguistic meaning of Shari'ahreverberates *in its technical usage: just as water is vital to human life,* so the clarity and uprightness of Sharia is the means of life for mankind. All aspects of a Muslim's life are governed by Sharia. Sharia law comes from a combination of sources including the Qur'an (the Muslim holy book), the Hadith (sayings and conduct of the prophet Muhammad) and fatwas (the rulings of Islamic scholars). The legal philosophers of Islam, such as Ghazali, Shatibi, and Shah Wali Allah explain that the aim of Shari'ah is to promote human welfare.

The Qur'an is the supreme authority in Islam and the primary source of Islamic Law, Sharia is all-encompassing, a comprehensive guidance that takes into consideration all aspects of the human life including the laws regulating war and peace. The second source is the hadith, the traditions of the Prophet Muhammad's acts and deeds, which can be used to confirm, explain or elaborate Qur'anic teachings, but may not contradict the Qur'an, since they derive their authority from the Qur'an itself.[15]Shariah rules our relationship with Allah, our Creator, within ourselves, with each other, our families, our communities and the whole society. It teaches us how to conduct our affairs with one another in order to promote unity and strengthen good relationship among people. Allah says:

> *"...and We have sent.down to you the Book explaining things, a guide, a mercy and glad tidings to Muslims."*[16]

Conceptualisation of As-Siyar

Literally, Siyar plural of sirah means conduct, practice, comportment, behavior and way of life, attitude or acceptable behavior. Sirah also denotes condition, state, situation or form, shape and in Shari'ah, Siyar refers to issues regarding the laws of war.[17] The term Sira is used by some historians and traditionalists as synonym to the term maghazi(wars). The compilers of hadith of the Prophet have the titles of Kitab al-Siyar, Kitab al-Jihad and Kitab al-Maghazi to describe rules governing the conduct of war, the protection of civilians, the protection of prisoners of war, cessation of hostility, signing and breach of peace treaties, territorial jurisdiction and even the various rules of conducting business between Muslim and non-Muslim states.[18] There have been various efforts made by scholars to define the concept of the term, as-siyar.

According to al-Quduri, as-siyar is the plural of sirah, which literally means"way of affairs". It is construed to mean the ways the Prophet (SAW) dealt with war and peace. In the terminology of the Jurists it refers to the military expeditions of Rasullullah (S.A.W).[19]

In the Oxford Dictionary of Islam, it is stated that the singular form (sirah) usually refers to the biography of prophet Muhammad (S.A.W). The plural form (siyar) is an

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[15] http://www.bbc.co.uk/religion/religions/islam/beliefs/sharia_1.shtml accessed on 2 February 2017.

[16]Surat An-Nahl verse 89.

[17]AbulFathNasiruddinMuttrazi, Al-Mughrib fi Tartib al-Mu'rib, ed. MahmoodFakhuri

affecting not only states in Africa[6] and Asia[7], but also Europe[8], Australia[9], North America[10] and South America[11]. Such attacks have targeted Muslims and non-Muslims.[12]These tragic events are assumed to be justified by Islam in the minds of some people. This idea has been fuelled further by many media channels which defame Islam by portraying these bombers as 'Islamists' or 'Jihadists', as though it were a legitimate saying on behalf of Muslims. The actions of a few fanatical individuals who happen to have Muslim names or ascribe themselves to the Muslim faith should not be a yardstick by which Islam or Muslims are judged.[13]Apart from many peaceful Muslims who are themselves unaware of the present day violence, there are also educated, moderate Muslims who do not agree with such terrorist acts and interpret these passages of the Qur'an and these precedents in the life of Muhammad differently; they would not interpret them as justifying atrocities as committed by Islamic terrorist groups.[14] Thus, there is the necessity to determine if Islam really justifies terrorism.

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[6] According to Rose Troup Buchanan (18 November 2015). "Isis overtaken by Boko Haram as world's deadliest terror organisation".The Independent. Retrieved 18 November 2015 >Boko Haram killed over 6,600 people in 2014. On January 30, 2016, Boko Haram gunmen raided a Nigerian village, at least 65 people were killed and 136 others injured. On January 25, 2016, suspected Boko Haram insurgents had blown themselves up in a market in Cameroon, killing at least 25 people and injuring 62 others. On March 13, 2016, in the 2016 Grand- Bassam shootings, Al Qaeda gunmen stormed 3 hotels in the beach resort city of Grand-Bassam in the Ivory Coast, leaving 18 people dead. On January 22, 2016 Al-Shabab attack on beachside restaurant left about 20 people dead.https://en.m.wikipedia.org/wiki/List_of_Islamist_terrorist_attacks accessed on 1 February 2017.

[7]On January 14, 2016, Indonesians woke yet to another terrorist attack in the central business district of Jakarta by ISIS >http://m.huffpost.com/us/entry/9396942accessed on 1 February 2017.On August 8, 2016, 77 people were killed and over 100 injured by a suicide bombing at a government hospital in Quetta, Pakistan. On December 12, 2015, Islamists detonated a car bomb near a hospital in central Homs, Syria, 16 killed, 54 injured. On December 12, 2015, a militant detonated his explosives in a truck at an Iraqi position near the Saudi border, 6 dead, 14 injured. The April 2016 Kabul attack targeted a security team responsible for protecting government VIPs in Kabul, Afghanistan. The attack killed 64 people and wounded 347. It was the Taliban's biggest attack on an urban area since 2001. https://en.m.wikipedia.org/wiki/List_of_Islamist_terrorist_attacks accessed on 1 February 2017.

[8]The bombings of the Madrid train system in 2004 >https://en.m.wikipedia.org/wiki/Terrorism_in_Europe accessed on 1 February 2017. On July 26, 2016 a priest's throat was slit and four nuns were taken hostage in a church in Rouen, France >https://en.m.wikipedia.org/wiki/List_of_Islamist_terrorist_attacks accessed on 1 February 2017.On December 19, 2016 there was the Berlin attack during which a truck was driven into the Christmas market next to the Kaiser Wilhelm Memorial Church at Breitscheidplatz in Berlin, Germany, left 12 people dead and 56 others injured >https://en.m.wikipedia.org/wiki/List_of_Islamist_terrorist_attacks accessed on 1 February 2017.

[9]On October 2, 2015, a New South Wales Police Force civilian employee was shot dead outside the Police Force Headquarters on Charles Street, Parramatta, Sydney by a 15-year old lone gunman >https://en.m.wikipedia.org/wiki/List_of_Islamist_terrorist_attacks accessed on 1 February 2017.

[10]On November 28, 2016 Ohio State University was attacked, 11 people were hospitalized for injuries after a car ramming attack and mass stabbing occurred at the Ohio State University. The perpetrator, Abdul Razak Ali Artan, was a Muslim Somali refugee and legal permanent resident of the United States >https://en.m.wikipedia.org/wiki/List_of_Islamist_terrorist_attacks accessed on 1 February 2017.

[11]On 21 July 2016, two weeks before the scheduled start of the Olympic Games, Brazilian Federal Police busted an Islamic jihadist terrorist ring plotting to wreak havoc. 10 people allied with ISIS were eventually arrested >https://en.m.wikipedia.org/wiki/Terrorism_in_Brazil accessed on 1 February 1 2017.

[12]Siddiqui, Mona (August 23, 2014). "Isis: a contrived ideology justifying barbarism

The Relevance of Islamic International Law (As-Siyar) in the Con

Dr. A. A. Owoade*,
& Barr. M.B. Badr**

Introduction

Terrorist activity has existed in many contexts over the past 10 20th century, various radical Russian communist groups engaged in te 20th century saw various radical terrorist groups around Europe and of European terrorism is the Irish Republican Army in Ireland. It is arg decades, majority of terrorist activity both in quantity and magnitu Muslim context. Seeing as people tend to have both short memories a historical knowledge, it is easy to see how they become convince inherently linked to Islam. A little perspective will show that the abu in Islam is a local historical phenomenon of our era, and it not a necessa as a religion of Arab Muslim culture.[1]Unfortunately, more and more o associated with terrorism and violence due to the acts of a few extrem have taken it upon themselves to do the most heinous crimes in the na

Terrorism is defined as "the unlawful use or threatened use of a person or an organized group against people or property wit intimidating or coercing societies or governments, often for ideo reasons". A terrorist is defined as "one who engages in acts of t terrorism on the other hand, is defined as any terrorist act, set of committed by groups or individuals who profess Islamic or Islar goals.[3]Islamic terrorists justify their actions through interpreting the according to their own goals and intentions.[4] The highest number fatalities caused by Islamic terrorism occur in Iraq, Afghanistan, Nig Syria. In 2015, four Islamic extremist groups were responsible for terrorism": ISIS, Boko Haram, the Taliban and Al-Qaeda, accord Terrorism Index 2016.[5]In recent decades, such incidents have occurre

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[1]https://www.quora.com/Why-is-terrorism-so-frequently-associated-with-Islam accessed

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PORT HARCOURT LAW JOURNAL

The Port Harcourt Law Journal is a peer refereed journal published by the Faculty of Law, Rivers State University, Port Harcourt Nigeria. It provides *a* forum for scholars and practitioners to reflect on diverse legal issues of national, regional and international significance and of local and regional relevance.

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