Islamic international law

Concept of the War and Peace in Islam

Basic principles

- Principle of peace and security should not be violated in any way, except in the case of aggression and when the enemy resorts to arms
- The rules governing the relationship between Muslims and People of Book is ideal, most rational and unmistakable methodology
- Obligation to wage defensive combat
- Islamic religious duty – „struggle in the way od God”

Rules related to the international order

- Human brotherhood
  *War is only for defence, to prevent injustice and fend off aggression.*
- Honouring the human being and preserving human rights
  *To protect each person’s existence and to preserve their rights*
- Islamic ethics and morality
- Justice and equality in rights and duties
- Mercy in peace and war
- Honouring covenants and commitments
- Reciprocity

Recognition of international personality of other States

- To enable every State to live in freedom, security and peace, and to be dedicated to fulfilling its obligations toward its people
- No State has the right to infringe upon sovereignty of another State, nor to invade it or control its destiny and its wealth
- No State is entitled to interfere in the affairs of the other State

International relations in the event of war

- Classical division of the world into two (three) spheres
- War as necessity in Islamic Sharia
- The Islamic perception of the motive for warfare
- Legal restrictions in war

Islamic division of the world (1)

- **Sphere of Islam (Dar al-Islam)**
  Countries where the power lies with Muslims, where the rules of Islam are implemented and Islamic rituals are performed
  Muslims and people of covenant
- **Sphere of war (dar al-harb)**
  Countries which are outside the scope of Islamic sovereignty and where the religious and political rules of Islam are consequently not implemented
Islamic division of the world (2)

- **Sphere of covenant** (*dar al-ahd or sulh*)
  Those regions that have concluded peaceful trade pacts, a conciliation agreement or long-term truce with Muslims

War as a necessity in Sharia (1)

- **Concept of Jihad**
  **Definition:**
  The fight against the enemy
  Exerting the utmost effort to find off the enemy
  Warfare waged by a Muslim against a disbeliever, with whom he has no oath or against his presence in or penetration into the Muslim territory
  *Jihad* - is lawful in Islam as a necessity to suppress aggression
  Religion was not the motive for warfare in jihad, nor was the purpose to subordinate others to convert to Islam

War as a necessity in Sharia (2)

Islam did not recognize war as a national policy, a method of conflict resolution or to satisfy a desire for hegemony or to gain spoils.

Before the declaration of *jihad*, the enemy should be made to choose one of three options:

1) Islam
2) Reconciliation or peace treaty
3) War

The Islamic perception of the motive for warfare

To respond to an attack and aggression
No human being is to be killed for merely contravening Islam, but to ward off aggression by him
Civilians or non-combatants may not be either killed or attacked
The killing of woman, children and priests is prohibited
**The war is legitimate in case of:**
1) aggression against Muslims or attempts to make Muslims apostates
2) assistance for the victims of injustice
3) self-defence and to ward off attacks on one's homelands

Legal restrictions in war

- A non-combatant who is not taking part in warfare, either by action, opinion, planning or supplies, must not be attacked
- The destruction of property is prohibited, except when it is military necessity to do so or when that property makes a direct contribution to war
- Principles of humanity and virtue should be respected during and after war
- It is permitted to guarantee public or private safety on the battlefield, to prevent as far as possible the continuation of war