

islamic law of nations the shaybanis siyar

[#Islamic international law](#) [#Al-Shaybani](#) [#Siyar jurisprudence](#) [#Islamic law of nations](#) [#classical Islamic legal theory](#)

Explore the foundational principles of Islamic international law as articulated by the influential scholar Al-Shaybani, whose seminal works on 'Siyar' lay the groundwork for understanding the legal relations between Muslim and non-Muslim states. This doctrine encompasses rules governing warfare, treaties, neutrality, and the rights of individuals in times of peace and conflict, offering a comprehensive look at an early system of international legal thought.

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The Islamic Law of Nations

From its origins Islam has been an expansionist religion, understanding itself as a matter of faith to be in a permanent state of war with the non-Muslim world. After the initial consolidation of the Islamic caliphate, however, it soon became apparent that constant military hostilities could not be sustained and that other forms of relationship with non-Muslim nations would be necessary. To reconcile the imperatives of faith with the limits of military power, Islamic scholars developed elaborate legal doctrines. In the second century of the Muslim era (eighth century C.E.), hundreds of years before the codification of international law in Europe by Grotius and others, Muhammad ibn al-Hasan al-Shaybani, an eminent jurist of the Hanafite school in present-day Iraq, wrote the first major Islamic treatise on the law of nations, *Kitab al-Siyar al-Kabir*. Translated with an extensive commentary by Majid Khadduri, Shaybani's *Siyar* describes in detail conditions for war (jihad) and for peace, principles for the conduct of military action and of diplomacy, and rules for the treatment of non-Muslims in Muslim lands. A foundational text of the leading school of law in Sunni Islam, it provides essential insights into relations between Islamic nations and the larger world from their earliest days up to the present.

Islamic International Law

Through the analysis of Al-Shaybani's most prolific work *As-Siyar Al Kabier*, this book offers a unique insight into the classic Islamic perspective on international law. Despite being recognised as one of the earliest contributors to the field of international law, there has been little written, in English, on Al-Shaybani's work; this book will go some way towards filling the lacuna. *International Islamic Law* examines Al-Shaybani's work alongside that of other leading scholars such as: Augustine, Gratian, Aquinas, Vitoria and Grotius, proving a full picture of early thinking on international law. Individual chapters provide discussion on Al-Shaybani's writing in relation to war, peace, the consequences of war and diplomatic missions. Khaled Ramadan Bashir uses contemporary international law vocabulary to enable the reader to consider Al-Shaybani's writing in a modern context. This book will be a useful and unique resource for scholars in the field of Islamic International Law, bringing together and translating a number of historical sources to form one accessible and coherent text. Scholars researching the his-

torical and jurisprudential origins of public international law topics, such as: international humanitarian law, 'just war', international dispute resolution, asylum and diplomacy will also find the book to be an interesting and valuable text.

The Shorter Book on Muslim International Law

Khadduri presents a lucid analysis of classical Islamic doctrine concerning war and peace and its adaptation to modern conditions. Working primarily with original Muslim sources, he examines the nature of the Islamic state, Islamic law and the influence of Western law. Other chapters consider classical Muslim attitudes toward foreign policy, international trade, warfare, treaties and how these have developed during the twentieth century. Majid Khadduri [1909-2007] was a Professor of Middle East Studies at the School of Advanced International Studies of The Johns Hopkins University and Director of Research and Education at the Middle East Institute in Washington, D. C. He was the author of several books in English and Arabic on Middle Eastern affairs. Contents: Fundamental Concepts of Muslim Law I Theory of the State II Nature and Sources of Law III The Muslim Law of Nations The Law of War IV Introduction V The Doctrine of the Jihad VI Types of Jihad VII Military Methods VIII The Initiation of War IX Land Warfare X Maritime Warfare XI Spoils of War XII Termination of Fighting The Law of Peace XIII Introduction XIV Jurisdiction XV Foreigners in Muslim Territory: Harbis and Musta'mins XVI Muslims in Non-Muslim Territory XVII Status of the Dhimmis XVIII Treaties XIX Commercial Relations XX Arbitration XXI Diplomacy XXII Neutrality XXIII Epilogue Glossary of Terms Bibliography Index

War and Peace in the Law of Islam

Middle Easterners today struggle to find solutions to crises of economic stagnation, political gridlock, and cultural identity. In recent decades Islam has become central to this struggle, and almost every issue involves fierce, sometimes violent debates over the role of religion in public life. In this post-9/11 updated edition R. Stephen Humphreys presents a thoughtful analysis of Islam's place in today's Middle East and integrates the medieval and modern history of the region to show how the sacred and secular are tightly interwoven in its political and intellectual life.

Between Memory and Desire

Using data ranging from the courts of North Africa to the treatment of Islam in American courts, these essays demonstrate the appeal of Islamic law in the lives of everyday adherents.

The Justice of Islam

Freedom of religion is a subject, which has throughout human history been a source of profound disagreements and conflict. In the modern era, religious-based intolerance continues to provide lacerative and tormenting concern to the possibility of congenial human relationships. As the present study examines, religions have been relied upon to perpetuate discrimination and inequalities, and to victimise minorities to the point of forcible assimilation and genocide. The study provides an overview of the complexities inherent in the freedom of religion within international law and an analysis of the cultural-religious relativist debate in contemporary human rights law. As many of the chapters examine, Islamic State practices have been a major source of concern. In the backdrop of the events of 11 September 2001, a considerable focus of this volume is upon the Muslim world, either through the emergent State practices and existing constitutional structures within Muslim majority States or through Islamic diasporic communities resident in Europe and North-America.

Religion, Human Rights and International Law

Majid Khadduri, one of the world's preeminent authorities on Islamic justice and jurisprudence, presents his extensive study and reflection on Islamic political, legal, ethical, and social philosophy. This book is both a magisterial historical synthesis and an illumination of the beliefs and practices of modern Islam. (World Religion)

The Islamic Conception of Justice

Recent events have demonstrated that one of the most important fields of study in this century is world order. The contribution of this book to this field is that it attempts to lay the intellectual foundations for a reconsideration of what constitutes a truly Islamic world order. Perhaps the words of the late Professor Ismail al-Faruqi, in his scholarly introduction to this work, best describes the landmarks of such an order;

"The world order of Islam would confer upon every person by virtue of birth and humanity, the ultimate right and honor, namely, the capacity to think and make up one's mind as to which millah one wishes to belong and hence, by which law one desires to order one's life and that of one's dependents." In dealing with his subject, the author has had to return to the sources of Islam, the Qur'an and the Sunnah, and develop a methodology for dealing with them in a creative and practicable manner. In doing so, he examines the methodology developed by the early generations of Muslim scholars and finds it limited by its legalistic approach. Thus, much of the value of his work lies in its discussion of methodology and in the social sciences in general, by means of methodology developed from a purely Islamic perspective. Originally submitted as a doctoral dissertation, and then revised for its publication in 1987 as "The Islamic Theory of International Relations"

Towards an Islamic Theory of International Relations

In this pioneering work Siraj Sait and Hilary Lim address Islamic property and land rights, drawing on a range of socio-historical, classical and contemporary resources. They address the significance of Islamic theories of property and Islamic land tenure regimes on the 'webs of tenure' prevalent in the Muslim societies. They consider the possibility of using Islamic legal and human rights systems for the development of inclusive, pro-poor approaches to land rights. They also focus on Muslim women's rights to property and inheritance systems. Engaging with institutions such as the Islamic endowment (waqf) and principles of Islamic microfinance, they test the workability of 'authentic' Islamic proposals. Located in human rights as well as Islamic debates, this study offers a well researched and constructive appraisal of property and land rights in the Muslim world.

Land, Law and Islam

Khaled Abou El Fadl's book represents the first systematic examination of the idea and treatment of political resistance and rebellion in Islamic law. Pre-modern jurists produced an extensive and sophisticated discourse on the legality of rebellion and the treatment due to rebels under Islamic law. The book examines the emergence and development of these discourses from the eighth to the fifteenth centuries and considers juristic responses to the various terror-inducing strategies employed by rebels including assassination, stealth attacks and rape. The study demonstrates how Muslim jurists went about restructuring several competing doctrinal sources in order to construct a highly technical discourse on rebellion. Indeed many of these rulings may have a profound influence on contemporary practices. This is an important and challenging book which sheds light on the complexities of Islamic law and pre-modern attitudes to dissidence and rebellion.

Rebellion and Violence in Islamic Law

International Law and Islam: Historical Explorations offers a unique opportunity to examine the Islamic contribution to the development of International Law in a historical perspective.

International Law and Islam

The traditional doctrine of Islamic law in regard to international relations is well known. The Shari'a includes many excellent provisions about declarations of war, treaties of peace, armistices, diplomatic envoys, negotiations and guarantees of safe conduct. But the fact remains that it divides the world, broadly speaking, into the "Abode of Islam" and the "Abode of War," and that it envisages the continuance of intermittent war between them until the latter is absorbed in the former. In the course of such fighting, and in the intervals in between, many civilities were to be meticulously observed; but prisoners of war could be killed, sold or enslaved at the discretion of the Muslim authorities, and the women of those who resisted the advance of Islam could be taken as slave-concubines, regardless of whether they were single or married. The "Abode of Islam" did not, indeed, consist exclusively of Muslims, for those whose religion was based on a book accepted by Islam as originally inspired and in practice, indeed, those other religions too - were not forced to embrace Islam but only to accept Muslim rule. They were granted the status of dhimmis, were protected in their persons and their property, were allowed to follow their own religion in an unobtrusive fashion, and were accorded the position of essentially second-class citizens. They were also of course, perfectly free to embrace Islam; but for a Muslim to be converted to another faith involved the death penalty.

The Muslim Conception of International Law and the Western Approach

Challenging the view of Islamic extremists and critics of Islam, this book explores the very topical issue of Islam's compatibility with democracy. It examines: principles of Islam's political theory and the notion of democracy therein the notion of democracy in medieval and modern Muslim thought Islam and human rights the contribution of Islamic legal ideas to European legal philosophy and law. The book addresses the pressing need for a systematic show of an Islamic politics of human rights and democracy grounded in the Qur'an. The West wonders about Islam and human rights, and its own ability to incorporate Muslim minority communities. Many Muslims also seek to find within Islam support source for democratic governance and human rights.

The Ladder to Success in Truly Loving Allah

This updated and revised second edition, with contributions from renowned experts, provides a comprehensive scholarly framework for analyzing the theory and history of international law. Featuring an array of legal and interdisciplinary analyses, it focuses on those theories and developments that illuminate the central and timeless basic concepts and categories of the international legal system, highlighting the interdependency of various aspects of theory and history and demonstrating the connections between theory and practice.

Democracy In Islam

The question of how Islamic law regulates the notions of just recourse to and just conduct in war has long been the topic of heated controversy, and is often subject to oversimplification in scholarship and journalism. This book traces the rationale for aggression within the Islamic tradition, and assesses the meaning and evolution of the contentious concept of jihad. The book reveals that there has never been a unified position on what Islamic warfare tangibly entails, due to the complexity of relevant sources and discordant historical dynamics that have shaped the contours of jihad. Onder Bakircioglu advocates a dynamic reading of Islamic law and military tradition; one which prioritises the demands of contemporary international relations and considers the meaning and application of jihad as contingent on the socio-political forces of each historical epoch. This book will be of great interest to scholars and students of international law, Islamic law, war and security studies, and the law of armed conflict.

Research Handbook on the Theory and History of International Law

Mufid al-'Ibad, of which this book is a translation, is a summation of all the previous commentaries on the work of Ibn 'Ashir on Ash'ari 'aqida, Maliki fiqh and Junaydi tasawwuf and is augmented not infrequently by the author's own subtle understanding of the finer aspects of the 'amal of the people of Madina. Shaykh Ahmad bin al-Bashir al-Qalawi ash-Shinqiti (1216 AH/1802 CE- 1276 AH/1853 CE), whose lineage can be traced to Abu Bakr as-Siddiq, came from a family and tribe in present day Mauritania renowned for its knowledge and active implementation of the deen. Although he himself refrained from any sufic commentary on Ibn Ashir's work, he was recognised as a wali by the men of this science around him. Dr Yate (Cantab.) has translated works from Arabic, Persian, German and French, and, in collaboration with others, from Turkish. He teaches Arabic and Fiqh at the Weimar Institute, is a Founding fellow of The Muslim Faculty of Advanced Studies, and is active on the shariat board of the World Islamic Mint.

Islamic Rulings on Warfare

The purpose of this text is to provide a handbook of Islam tailored to the needs of the Criminal Investigator and Intelligence Analyst. It draws from the doctrinal sources of Islamic Law, Sunni Tradition, that are overlooked by criminology and counterterrorism references. - The Life of Muhammad: A Translation of Ishaq's Sirat Rasul Allah - The Quran - Hadith of Bukhari - Hanafi School: The Islamic Law of Nations: Shaybani's Siyar - Hanbal School: Al Musnad - Maliki School: Al Muwatta - Maliki School: Bidayat al Mujtahid wa Nihayat al Muqtasid (The Distinguished Jurist's Primer). - Shafi'i School: Al-Shafi'i's Risala - Shafi'i School: Umdat al-salik (Reliance of the Traveller) This text is focused on the effects Islamic Law and Religion exert on the individual. It is not intended to be a work of scholarship or an exhaustive topical examination of Islamic doctrine. It is intended to be of sufficient depth to familiarize analysts and investigators with the doctrinal themes and drivers that may underlie street behavior and influence investigations that are overlooked or ignored by Criminal Justice writers. This is a handbook for practitioners, a tool needed by analysts and investigators.

Islam and Warfare

"Discusses the fundamental assumptions regarding the foundations of Pakistani nationalism as well as our current understanding of the roots of its postcolonial identity crisis"--

Islam in the School of Madina

Reference librarian and archivist Paula (Union Theological Seminary and Presbyterian School of Christian Education, Virginia) and Rebecca, a scholar of Arabic studies, present a critically annotated bibliography of central works on Islam that are available in English translation. They write for readers who are acquainted with the basic ideas, histo.

The Criminal Investigator-Intelligence Analyst's Handbook of Islam

Islam and International Law explores the multi-faceted relationship of Islam and international law. Current debates on Sharia, Islam and the "West" often suffer from prejudice and platitudes. The book seeks to engage such self-centrism by providing a plurality of perspectives, both in terms of interdisciplinary research and geographic backgrounds.

Creating a New Medina

'This book presents an invaluable contribution to the debate on the compatibility of Islam and modernity. It is full of arguments and examples showing how Islam can be understood in line with modern life, human rights, democracy, the rule of law, civil society and pluralism. The three authors come from different countries, represent different gender perspectives and have a Shia, a Sunni and a non-Muslim background respectively which makes the book a unique source of information and inspiration.' Irmgard Marboe, University of Vienna, Austria This well-informed book explains, reflects on and analyses Islamic law, not only in the classical legal tradition of Sharia, but also its modern, contemporary context. The book explores the role of Islamic law in secular Western nations and reflects on the legal system of Islam in its classical context as applied in its traditional homeland of the Middle East and also in South East Asia. Written by three leading scholars from three different backgrounds: a Muslim in the Sunni tradition, a Muslim in the Shia tradition, and a non-Muslim woman the book is not only unique, but also enriched by differing insights into Islamic law. Sir William Blair provides the foreword to a book which acknowledges that Islam continues to play a vital role not just in the Middle East but across the wider world, the discussion on which the authors embark is a crucial one. The book starts with an analysis of the nature of Islamic law, its concepts, meaning and sources, as well as its development in different stages of Islamic history. This is followed by accounts of how Islamic law is being practised today. Key modern institutions are discussed, such as the parliament, judiciary, dar al-ifta, political parties, and other important organizations. It continues by analysing some key concepts in our modern times: nation-state, citizenship, ummah, dhimmah (recognition of the status of certain non-Muslims in Islamic states), and the rule of law. The book investigates how in recent times, more and more fatwas are issued collectively rather than emanating from an individual scholar. The authors then evaluate how Islamic law deals with family matters, economics, crime, property and alternative dispute resolution. Lastly, the book revisits certain contemporary issues of debate in Islamic law such as the burqa, halal food, riba (interest) and apostasy. Modern Perspectives on Islamic Law will become a standard scholarly text on Islamic law. Its wide-ranging coverage will appeal to researchers and students of Islamic law, or Islamic studies in general. Legal practitioners will also be interested in the comparative aspects of Islamic law presented in this book.

The Literature of Islam

Al-Dawoody examines the justifications and regulations for going to war in both international and domestic armed conflicts under Islamic law. He studies the various kinds of use of force by both state and non-state actors in order to determine the nature of the Islamic law of war.

Islam and International Law

In Islamic Legal Thought: A Compendium of Muslim Jurists, twenty-three scholars each contribute a chapter containing the biography of a distinguished Muslim jurist and a translated sample of his work. Jurists of the formative, classical and modern periods are represented.

Modern Perspectives on Islamic Law

What norms and principles guide the Afghan Taliban in their conduct of hostilities? The author focuses on the Layeha, a Code of Conduct issued by the highest Taliban authority. Interviews with Taliban members were conducted to understand their perception of the Layeha, which is modeled as a 'one-way mirror.'

The Islamic Law of War

The translation of law has played an integral part in the interaction among nations in history and is playing a greater role in our increasingly interconnected world today. The book investigates legal translation in its many facets as an intellectual pursuit and a profession. It examines legal translation from an interdisciplinary perspective, covering theoretical and practical grounds and linguistic as well as legal issues. It analyses legal translation competence and various types of legal texts including contracts, statutes and multilateral legal instruments, presents a comparative analysis of the Common Law and the Civil Law and examines the case law from Canada, Hong Kong and the European Court of Justice. It attempts to demonstrate that translating law is a complex act that can enrich law, culture and human experience as a whole.

Islamic Legal Thought

In *Islamic Jurisprudence on the Regulation of Armed Conflict*, Nesrine Badawi offers a survey of key Islamic legal texts on the subject and analyses the relationship between their deductive structures and the contexts witnessed at the time of their development.

The Legitimization Strategy of the Taliban's Code of Conduct

The emergence of the Mormon church is arguably the most radical event in American religious history. How and why did so many Americans flock to this new religion, and why did so many other Americans seek to silence or even destroy that movement? Winner of the MHA Best Book Award by the Mormon History Association *Mormonism exploded across America in 1830, and America exploded right back. By 1834, the new religion had been mocked, harassed, and finally expelled from its new settlements in Missouri. Why did this religion generate such anger? And what do these early conflicts say about our struggles with religious liberty today?* In *No Place for Saints*, the first stand-alone history of the Mormon expulsion from Jackson County and the genesis of Mormonism, Adam Jortner chronicles how Latter-day Saints emerged and spread their faith—and how anti-Mormons tried to stop them. Early on, Jortner explains, anti-Mormonism thrived on gossip, conspiracies, and outright fables about what Mormons were up to. Anti-Mormons came to believe Mormons were a threat to democracy, and anyone who claimed revelation from God was an enemy of the people with no rights to citizenship. By 1833, Jackson County's anti-Mormons demanded all Saints leave the county. When Mormons refused—citing the First Amendment—the anti-Mormons attacked their homes, held their leaders at gunpoint, and performed one of America's most egregious acts of religious cleansing. From the beginnings of Mormonism in the 1820s to their expansion and expulsion in 1834, Jortner discusses many of the most prominent issues and events in Mormon history. He touches on the process of revelation, the relationship between magic and LDS practice, the rise of the priesthood, the questions surrounding Mormonism and African Americans, the internal struggles for leadership of the young church, and how American law shaped this American religion. Throughout, *No Place for Saints* shows how Mormonism—and the violent backlash against it—fundamentally reshaped the American religious and legal landscape. Ultimately, the book is a story of Jacksonian America, of how democracy can fail religious freedom, and a case study in popular politics as America entered a great age of religion and violence.

Translating Law

Compares the modern legal instruments of Jewish, Christian and Muslim organisations in light of their historical religious laws.

Islamic Jurisprudence on the Regulation of Armed Conflict

"This book investigates the various ways that ancient Greek and Roman authors envisioned the end of the world and the role they gave to global catastrophes, both past and future, in shaping human history"--

No Place for Saints

The global war on terror (GWOT) and the battles with specific Islamist groups is, to some degree, a war of ideas. With a better understanding of Islamic concepts of war, peace, and Muslim relations with non-Muslims, those fighting the GWOT may gain support and increase their efficacy. The authors explain the principles of jihad and war and their conduct as found in key Islamic texts, the controversies that have emerged from the Quranic verses of war and peace, and the conflict between liberal or moderate Islamic voices and the extremists on matters such as the definition of combatants, treatment of hostages, and suicide attacks.

Comparative Religious Law

The rapid rise of global Islamic Jihadism in the past few decades and the limited success of the anti-terror campaign in halting its expansion have raised hard-hitting questions about how different political actors might preserve and restore the world's peace and security. Since the end of the Second World War, international law has often been the chief instrument employed to address global conundrums of this kind. Nevertheless, international law alone cannot solve this problem. Jihadist groups often cite Islamic law argumentations to justify their combat-related actions against states while rejecting traditional international law rules. On the other hand, some states themselves ignore traditional international law rules to apply their so-called "counterterrorism" measures. The internationally recognized laws of war - created to protect those who do not participate in hostilities - are constantly challenged by jihadist groups and responding states in justification of their combat actions. In *Islamic Jihadism and the Laws of War*, Dr Omar Mekky explores both sides' legal frameworks, synthesising findings from both English and Arabic sources. Drawing from the author's field expertise as a legal advisor in the Middle East and North Africa, the book narrates how Islamic Jihadism began and evolved, outlines the laws jihadists apply during combat, addresses how states often react in their fights against jihadist groups, and aims for a pragmatic humanitarian legal formula. An essential resource for legal professionals, policymakers, academics, and students, Mekky's book initiates a constructive dialogue between international law and Islamic law.

Muslim Conduct of State

Deepening the discussion of the relationship between Islamic law and human rights, this volume gathers leading experts in both fields to examine how each system protects and limits fundamental freedoms. From gender equality to freedom of religion the book explores the main flashpoints in the debate, examining the operation of the law in context.

Apocalypse and Golden Age

The dislocations of the worldwide economic crisis, the necessity of a system of global justice to address crimes against humanity, and the notorious 'democratic deficit' of international institutions highlight the need for an innovative and truly global legal system, one that permits humanity to re-order itself according to acknowledged global needs and evolving consciousness. A new global law will constitute, by itself, a genuine legal order and will not be limited to a handful of moral principles that attempt to guide the conduct of the world's peoples. If the law of nations served the hegemonic interests of Ancient Rome, and international law served those of the European nation-state, then a new global law will contribute to the common good of all humanity and, ideally, to the development of durable world peace. This volume offers a historical-juridical foundation for the development of this new global law.

Islamic Rulings on Warfare

This pioneering research brings into focus the Islamic contribution and influence in the development of the modern law of the sea.

Islamic Rulings on Warfare

Islamic Jihadism and the Laws of War