Chapter-7
Dr. Muhammad Hamidullah's
Studies on Islamic International Law
Dr. Muhammad Hamidullah’s Studies on
Islamic International Law

In modern concept, international law is defined as “international law is the body of rules which are legally binding on states in their intercourse with each other. These rules are those which govern the relations of states, international organisation, individual etc.”.¹ It means international law is a system of rules, principles and concepts that governs relations among states, international organisations and individual. Modern international law contains two parts viz: private international law (conflict of laws) and public international law (law of nations). Private international law deals with the relations of a government with the subject of another state while public international law is confined to inter-state relations. Although the rules of private international law are the part of the internal law of the state concerned but they could become the part of public international law if are mentioned in treaty.² So, mostly authors have discussed the relations of two countries under public international law (law of nations). Public international law deals with three subjects viz: law of peace, law of war and law of neutrality. The law of peace mostly deals with three or four issues (sovereignty, property, jurisdiction and diplomacy). Law of war discusses the principles relating to the condition of hostility, treatment of prisoners of war, laws of war and that of property captured during war and conditions and clauses of treaty concluded at the end
of war. While, law of neutrality deals with the principles of relationship between a neutral state and hostile states.³

When Islam spread with its universal appeal to the people of different parts of the world, it emerged problem that how the Islamic state would conduct its relations with the non-Muslim states and with the tolerated religious communities within its territory. The jurists developed a special branch of Islamic law, known as the Siyar, a term which was applied to Islamic law of nations or international law of Islam.⁴

International law of Islam was one of the favourite areas of research for Dr. Hamidullah. He showed special interest in the field and made significant contributions to this subject as a researcher and author. First of all, he submitted his doctoral thesis entitled “Die Neutralität in Islamischen Volkerrecht” (Neutrality in Islamic International Law) to Bonn University (Germany) in 1933 for the award of D.Phil. In this work, he stressed the point that main founder of international law are Muslims and Islamic law is the only law which is equally applicable to every country. He also discussed that Islamic international law not only gives the principles regarding war and peace but also deals with rules and regulations of neutrality.⁵ His post-doctoral thesis entitled “Documents sur la Diplomatie Musulmane a L’e’poque du Prophete et des Orthodox Khalfes” (Documents of Muslim Diplomacy in the time of the Prophet of Islam and his Orthodox Caliphs) which was submitted to Sorbonne University (Paris) in 1935 to fulfil the requirement of D.Litt. The work is
divided into two volumes. The first volume discusses the relations of Prophet Muhammad (SAW) and the first four Caliphs with the chiefs of the tribes and the rules of different states. While, second volume contains text of the official documents (i.e. letters, agreements, treaties and administrative directives) prepared or issued in the period of the Prophet Muhammad (SAW) and first four Caliphs. In 1936, Dr. Hamidullah wrote the book under the title of Qānūn Bain al-Mumālik ke Usūl aur Nazīren keeping in view of requirement of L.L.B. students of Osmania University (Hyderabad). In this work, the learned author has discussed in detail about the principles of relationship between two countries in the condition of war, peace and neutrality. The introduction takes up very important issues for discussion such as origin and development of Islamic state and norms for bilateral relations between two countries. The work also gives details about the working of international law in modern period and takes into consideration the actual position of international law in Egypt, Palestine, India, Greek, Rome and Europe in present days.

The most important contribution of Dr. Hamidullah to this subject is his famous book Muslims Conduct of State. It is first systematic study of public international law of Islam in English which defines the principles that regulate the relations of a Muslim state with non-Muslim states and their subjects. These problems arose with the expansion of Islamic state and establishment of contact of Muslim states with other states, especially the friendly ones and their subjects. It is well known that Muslim jurists have discussed this problem under the chapter "Kitāb al-Siyar" in their juridical works. This is very
significant that the author has discussed in detail the origin and evolution of Islamic international law and his discussion is mainly focused on the principles prescribed by the Shari'at for relationship with non-Muslim states in three well-known situations of modern international law—peace, hostility and neutrality. So, he was the first who took up the major issues of the Islamic international law and presented them in a systematic way with the requirements of modern international law. It would not be exaggeration to say that he was Muhammad Hasan al-Shaibani of 20th century.

1. Definition and Nature of Islamic International law:

Dr. Hamidullah defines Islamic international law as “that parts of the law and custom of the land and treaty obligations which a Muslim de facto or de jure state observes in its dealing with other de facto or de jure states”.

Explaining this point further, he says that what Muslim states accept from other as such through customs of the land and treaties, is the part of Muslim international law. The acceptance of these laws will depend on the will of Muslim state which is controlled through Muslim law.

It is opinion of Dr. Muhammad Hamidullah that Islamic international law is the only law of the world which is equally applicable to all states of the world and is not confined to a few specific nations. Islamic international law eliminates national prejudices of race, colour, and nationality etc, and reminds men that they are the son of the same Adam and Eve, member of same family. In his view, Islam was the first to give a universal call without any
discrimination on the basis of colour, country and language. Every accidental superiority by birth was rejected; recognition was given only to deliberate superiority of one’s own conduct and piety. Equality of men and superiority of the pious is the rule laid down by Islam in every sphere of human life. In Islam, people are equal in terms of humanity, respect for human rights and human dignity, and no category or individual is better than others except in piety and good deeds. Cooperation is a principle that all people are required to observe. Allah says:

وَأَلْقَائُكُمْ إِنَّ اللَّهَ عَلِيمًا حَكِيمًا ١٣

(O Mankind! We created you from a single (pair) of a male and a 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).

2. Origin and Development of Islamic International Law:

Tracing the origin of Islamic international law, Dr. Hamidullah observed that if International law is a law which is equally applicable to all countries of the world and is not confined to a few specific nations, then it originated with the advent of Islam and Muslims are perhaps the only nation in the world which can legitimately claim to possess an international law. An international law which is both truly “international” and “law” began with the Muslims.
In view of Dr. Hamidullah that Islamic international law originated with the Prophet’s life at Madinah. Because, Prophet (SAW) and Muslims were not residing in an independent state at Makkah. The status of Islam in Makkah was that of state within state. Muslims lived in the city state of Makkah but they did not follow the old laws of Makkah.\textsuperscript{13}

While, in Madinah they founded a state and framed a constitution for it. The Prophet (SAW) was elected the leader (ruler) of this independent state. The rights and duties of the ruler and the ruled were defined and described in detail, and a legal document was prepared in written form which was called Madinah Charter (\textit{Wathā‘iq-e-Madinah}). This document contained considerable details about norms of relationship of the Islamic state with non-Muslims particularly Jews. The rights of Jews in Madinah state, we have discussed in earlier Chapter 3.\textsuperscript{14}

International law mainly deals with two things i.e. war and peace. With this regard, Dr. Hamidullah says that after establishing city state of Madinah, Prophet (SAW) had enjoyed peace only for a few months. In 2 A.H. the Muslims were confronted with the battle of Badr that took place between city state of Madinah and city state of Makkah. This battle raised many questions relating to conduct of war which were required to be answered. For instance, should war to be declared? And after the war ended it had to be decided whether only adults capable of bearing arms should be killed or should the same fate be meted out to all enemy men, women and children? Should a slave
be put to the sword? Should he be killed only in the battlefield? How is one to
treat prisoners of war? Should they be executed or released with or without
ransom? Should an exchange of prisoners of war take place? If so, how? The
practice and pronouncements of the Prophet provided the guidance for the law
which came into being and thus the concept of the Islamic international law
was evolved. Prophet Muhammad (SAW) developed Islamic international law
during his stay and organisation of state administration in Madinah.15

Dr. Hamidullah was of the view that when Muslim jurists started
writing on jurisprudence and took up the work of codification of Islamic
jurisprudence they also codified international law of Islam together with
worship, civil and military affairs, inheritance etc. They used the term Siyar
(conduct) to define the conduct of ruler for war and peace since the Prophet’s
time. In his opinion, Zaid Ibn Ali was the first who included a chapter on
international law under the title Kitāb al-Siyar in his book Al-Majmū‘ah fī al-
Fiqh. But his student, Abu Hanifah may be considered the first jurist who
developed it as a distinct branch of Islamic law. It is well-known that Abu
Hanifah delivered lectures on matters relating to war and peace and these
lectures were compiled by his disciple, Imam Muhammad Ibn Hasan al-
Shaibani in Kitāb al-Siyar al-Saghīr and Kitāb al-Siyar al-Kabīr. The text of
Imam Shaibani was later translated into English by Majid Khadduri entitled
_The Islamic law of Nations: Shaibani’s Siyar_. Besides, Imam Awzai, a well-
known jurist of the same period had also written a book on this important
subject. Though Awzai’s work is not available, but its critique by Abu Yusuf
entitled *Al-Radd-o-'Ala Siyar al-Awzai* has come down to us. The work was also referred to by Imam Shafii in his famous book *Kitāb al-Umm.*

In view of these evidences, Dr. Hamidullah observed that the term *Siyar* was popularly used by jurists for international law in different period.

3. Law of Peace:

*Sovereignty of Independent State:*

In view of Dr. Muhammad Hamidullah, sovereignty and independence of a state depends upon its rights to maintain international relations. If a state has absolute rights for maintaining foreign relations, it is to be considered independent. If this right is qualified and restricted, the state is partly sovereign and in case the right are non-existent, it will be a non-sovereign state.

Referring to Ibn Khaldun, Dr. Hamidullah defines the Islamic concept of independence as “the non-existence of any [external] power to enforce its will upon him, i.e., an independent sovereign”. In other words, the independent state has the right to administer all its internal and external affairs in such a way that there is no interfere of any foreign power (state). In the opinion of Dr. Hamidullah, an independent state has absolute right to take action (external and internal) in the interest of the country. This absolute right is actually a reflection of individual freedom of everyman which is explained by the jurist as الا صل في الناس الحرية (The original freedom of every man).

With regard to the sovereign of Islamic state, Dr. Hamidullah was of the opinion that Allah is the only sovereign of whole earth and constituent states in
the same manner as being the creator of all the things in His dominion and evaluating the potentialities. He only appoints the deserving human to be his deputy on the earth. The deputy (Khalifah) of Allah is definitely His messenger, who is selected or appointed by means of revelation and guided on every front through revelation. After the death of a messenger, this divine selection is to be done by the consensus of the Muslim community. So, human ruler on the earth is a trustee of Allah and is principal authority of all the parts of Muslim territory. 19

**Property of Islamic State:**

As regards proprietary rights of a state, Hamidullah was of the view that states hold proprietary right on their property as an individual has property right on his property. The most important thing in their property is territory of the states. Territory not only contains the surface of a part of the earth over which a state exercises its jurisdiction, but also consists of what is below and above this land. 20

With regard to the state property, Hamidullah has discussed the following principles of Islamic international law.

1. **Boundaries of the states will be determined by treaties between the neighbouring states.** If there is a river or lake on the frontier, the boundaries will be considered in the middle of water.

2. **Water will be the part of adjoining land and is the property of state which rules on that land.**
3. Regarding the open sea, he held the opinion that there was no particular rule for its ownership. He stated that some Muslim scholars considered it under the control of non-Muslims; some acknowledged it the property of Muslim state while some other treated it as the neutral property.\textsuperscript{21}

To acquire the property of other state, Hamidullah gives the principle of Islamic law that when a Muslim state takes control over some parts of the other state, this part will become the property of Muslim state. This property can be acquired by war, treaty, purchase, mutual exchange of property and on the basis of will of the inhabitants of that territory. In this connection, he clarified that if public property is acquired, it could not be given to anyone for his private use. All the people have right over public property on behalf of the Muslim state. So, in Muslim territory, canals, rivers and other waterways will open to all. The traders and foreigners can bring anything from their country through waterway but they will be required to pay tax under the prescribed rules.\textsuperscript{22}

\textbf{Positions of non-Muslims and Apostates in Islamic State:}

According to Dr. Muhammad Hamidullah, non-Muslim protected subjects of an Islamic state are \textit{Zimmî}. \textit{Zimmah} is actually a mutual contact between non-Muslims and Muslim State. \textit{Zimmî} is required to pay protection tax, called \textit{Jizyah} about 12 to 48 dirham per head annually. Islamic government will give full protection to their life, religious belief and property and they will be exempted from many other obligations. They would not pay \textit{Zakât} and
military service would be compulsory for them. Their cases will be dealt by their co-religionist in accordance of their personal law.23

With regard to the settlement of non-Muslims Dr. Hamidullah says that non-Muslims are to be permitted to settle anywhere in the territory of Islamic state except Arabia,24 because the Holy Qur'ân has declared in verse:

(O ye who believe! Truly the Pagans are unclean, so let them not, after this year of theirs approach the sacred mosque. And if ye fear poverty, soon will Allah enrich you, if He wills, out of His bounty, for Allah is All-Knowing, All Wise.)25

Referring to the sharh Shami, he says that non-Muslims of Islamic state could be appointed at any administrative post in the Islamic state such as wazârat (ministry), safârat (ambassadorship). He pointed out that the Prophet (SAW) had sent Amr Ibn Umaiyyah al-Zamari (who had not yet embraced Islam) as his envoy to the court of the Negus.26

In the opinion of Dr. Muhammad Hamidullah a zimmi would forfeit his rights, if he is involved in any activity of the following nature.

1. Rebellion
2. Denial of the payment of Jîzyah
3. Disobedience to the Government
4. Fornication with a free Muslim woman
5. Espionage for and giving asylum to the enemy of the state
6. Rivalling of Allah, His messengers and His books
7. Causing a Muslim to Apostasy
8. Indulging in brigandage
9. Publicly acting upon something in contravention of the cherished principles of Islam
10. Indulging in usurious transactions

With regard to apostasy, Dr. Muhammad Hamidullah says, apostasy means conversion of a Muslim to other religion or refusal to believe in any obligatory commands of Islam.

With regard to the treatment of apostate, Dr. Hamidullah is of the view that there would be discussion with the apostate on the religious matter about which he had doubt utmost efforts would be made to remove his doubts. Secondly he would be given time to re-embrace Islam. After all these efforts, if he refuses, he will be given the punishment of death sentence and his property will be distributed among his Muslim heirs. He says that this punishment is prescribed by the Qur’an, traditions of the Prophet (SAW) and the same is established by the Ijma’ (Consensus) of Sahabah (RA) and legal verdicts of the jurists of later period. Dr. MuhammadHamidullah further clarified that the punishment of death sentence for apostates is not given due to change of religion but because of political treachery. No government of the world likes
treacherous persons. Instead, they are dealt with sternly and given persons severe punishment. Similarly, none can be forced to embrace Islam but if a person becomes a member of Islamic community, his treachery can not be tolerated and so he will be awarded punishment of death sentence. Dr. Muhammad Hamidullah also emphasized that there are many persons who may be exempted from or given leniency in the prescribed punishment of apostasy such as delirious, a melancholy and perplexed man, a minor, intoxicated person, one who had declared his faith in Islam under coercion and a person whose acceptance of Islam is not established. Besides, a woman would not be condemned to death, but imprisoned. An old man from whom no offspring is expected, many be also exempted.  

**Positions of Foreigners (Musta’min) in Islamic State:**

In view of Dr. Muhammad Hamidullah, *Musta’min* means a person who is temporarily residing in a foreign country by its permission. This term is used for both persons i.e. a Muslim temporarily residing in a non-Muslim country and a non-Muslim residing in a Muslim territory.

In view of Dr. Hamidullah, the residents of a state which has friendly relations (through treaty) with the Muslim state could enter the Islamic territory without any prior permission. It is quite evident from the practice of the Prophet (SAW). Once a non-Muslim foreigner came to Madinah with a herd of sheep and goats, apparently, on the basis of previous permission. There was no objection from the Prophet (SAW). Instead, he purchased goats from him. If
there is no treaty but relations are cordial, the Muslim state can permit and this permission may also be given in future. The permission may be given individually and collectively. Collective permission will be given by the ruler (Imam) of the Islamic state. A Muslim is entitled to give permission in individual capacity but a non-Muslim has no such right.33

As regards the treatment with non-Muslims of another country. Dr. Hamidullah was of the opinion that they would be treated in the same way as non-Muslim subjects of Muslim state were treated. They will be provided full security. In view of Dr. Hamidullah the cases of non-Muslim foreigners may be decided in Muslim courts but they are not bound to follow the penal code of Islam, such as he can not be prevented from wine drinking. In this connection, he pointed out difference of opinion among Imam Abu Yusuf and Imam Muhammad Shaibani. The former was of the opinion that Islamic penal code will be enforced in the cases of non-Muslim foreigners also except that related to wine drinking. While, the latter made distinction between the crimes relating to the violation of the rights of Allah (Huqūq al-Allah) and the right of people (Huqūq al-‘Ibād). According to him in the first case a non-Muslim foreigner would not be punished but in the second he would be subjected to Islamic punishment.34

Dr. Hamidullah says that if the war starts non-Muslim foreigners may be permitted to return their country with their belongings except weapons of war. They would not be allowed to go enemy country in case it is feared that they
would give military support to the enemy. It was also clarified that the validity of the immunity of a Musta' min (foreigner) depends on his conduct. If he acts a spy, his immunity would come to end. Similarly, if he becomes an ordinary belligerent immediately after leaving Islamic territory, his immunity would also become null and void. It is noteworthy to mention Dr. Hamidullah’s view regarding the termination of immunity of non-Muslim foreigners. He mentions that the immunity will be terminated if non-Muslim foreigner has any action in the following.

1. Expiration of the prescribed period
2. Breach of conditions expressly mentioned therein as annulling the permit or implied as such in every permit.
3. Forged permission on discovery
4. Transmission secrets of the Muslim state to the enemy
5. To become belligerent after crossing Islamic territory

Position of Muslims in non-Muslim country:

Referring to the opinion of Abu Yusuf that “a Muslim is to regulate his conduct according to laws of Islam wherever he may be”, Dr. Muhammad Hamidullah says that observing Islamic law in this situation depends upon the freedom enjoyed by the Muslims of foreign countries. In other words, he stressed the point that Islam demands from its followers to adhere to Shari'at in their daily life. But the fact is that a Muslim residing in non-Muslim countries does not have full freedom to follow the Islamic law as he enjoys in Dār al-Islām.
Islamic law has limited scope in non-Muslim countries. In non-Muslim countries, a Muslim is required to follow the rules and regulations of that country. Besides, he has to face many restrictions under law of the land. In this connection, he mentioned those Muslim communities which had settled in non-Muslim countries in the period of Prophet (SAW) and followed the law of these countries like refuge of Abyssinia. They enjoyed full freedom in their religious life.  

In the opinion of Dr. Hamidullah, Muslims in a foreign country are required to behave and work as law abiding citizen, follow the conditions of their permit, refrain from any act of treachery even if the war broke out between their country and the country where they resided as foreigner. Muslims are also forbidden from doing any wrong to their co-citizens. Moreover, the Muslims are not allowed to join the armed forces in a foreign country except in self defence or when it is feared that the enemies of their protector state would not respect the neutrality of the Muslim residents.

Dr. Hamidullah was of the opinion that all the Muslims are brother wherever they were living. He quoted the Quranic verse:

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ (الحج/10)

(The believers are but a single brotherhood)

In view of this Quranic injunction, he thought that when a Muslim migrated from his non-Muslim state and settled in an Islamic country, he would become a full-fledged Muslim citizen of the Muslim state and would have same
With regard to the criteria to become a resident of a Islamic state, Dr. Hamidullah says “a foreign Muslim is required to have the intention of at least a fortnight’s stay to become a settled and regular citizen of Muslim state”. In this connection, he cited the rule of the Qasr-prayer that if a Muslim undertakes a journey and becomes a legal traveller (Shari’ musafir), he gets a concession in his daily prayer in term of reduction of raka’ât. But if he decides to stay in a place for fifteen days, he becomes a settled resident of that place and the concession of traveller is withdrawn.

Diplomatic Relations:

In view of Dr. Hamidullah, the object of diplomacy is to find out peaceful solution of international problems and promotion of harmonious relationship among different states.

According to Dr. Hamidullah there are three categories of diplomacy.

1. The first is mutual negotiation. This can be materialised through permanent or special envoys.

2. The second kind of diplomacy is affected through mediation. In this type of diplomacy, a third party which has friendly relation with both the contending states, serves as mediator and gives suggestions for an amicable settlement of their disputes. He says that in the battle of Badr, Majidi Ibn ’Amr, who was an ally of both the groups of people-Muslims and Makkans, intervened as mediator and both detachment parted from each other quietly.
3. The third and most important kind of diplomacy is arbitration. In this diplomacy, the disputes of two states are to be resolved by one or more umpires chosen by the concerned parties. The relevant case cited by him is related to the treatment to be meted out to the Jewish tribes of Banu-Quraizah after their capitulation. It was decided that a certain person should decide who was selected as arbitrator by both the parties. His decision was accepted by the Prophet (SAW) the arbitral award was carried out in toto. 42

**Diplomacy in Islam:**

According to Hamidullah the diplomacy in Islam originated in the time of the Prophet (SAW). He says, the Prophet had sent his emissaries in different places such as Al-Abbas was sent to Makkah, Anas Ibn Abi Murthid al-Ghanawi to Awas (near Taif) and Munzir Ibn Amr-al-Saidi to Najad.

In view of Hamidullah, the commercial relations of Islamic state with other countries were established earlier than political and diplomatic ones. In this connection, clear guidance is available in the rules and practices of the Prophet (SAW)'s time. Prophet Muhammad (SAW) gave encouragement to external trade as it is well-known that he abolished all inter-provincial customs duties within the realm. While foreign trade remained subject to the usual *tithe* (*Ushür*) or whatever percentage was stipulated by treaties and conventions between states. Sometimes, merchandise of minors or women were exempted from custom duties in Islamic territories. 43

212
Regarding permanent diplomacy in Islam, Hamidullah was of the opinion that it was totally temporary in the beginning stage. The permanent diplomacy came into existence in the reign of Umayyad and lived into account till the destruction of Baghdad by Mongole in 656 A.H. in this connection, he quoted Sayyed Amir Ali’s thought:

“When the provincial governors became the feudatories of the empire and the sovereignty of the Caliph dwindled into more or less effective Suzerainty, the confidential messenger were turned into legates of the Pontiffs and acted as his resident agents in the courts of Nishapur, Merv, Mosul, Damascuss etc. Like the Papal legates in the later medieval times in Europe, they accompanied the sovereigns to whom they were accredited in their military marches. We find them not only in the camps of Alp-Arsalan and Malik Shah, but also in those of Naruddin Mahmud and Saladin (Salahuddin), ever active and sometimes meddlesome; occasionally as under the later Ayubids, reconciling contending princes and settling fratricidal strife”.44

“Each sovereign on his side maintained a commissary called Shahna (read: Shihnah) at the potential court, charged with the duty of keenly watching the moves of the game on the part of his rivals, for the struggle for predominating influence over the source of all legitimate authority was as great at Baghdad as in papal Rome. Shahnas were usually
stationed, besides the capital, in places like Wasit, Bussorah, Tikrit, etc."

"The Abbasid sovereigns frequently employed a special envoy to transact confidential business with neighbouring potentates. The office was called the Nizám al-Hadrátain".  

Emissaries:

In view of Hamidullah, Muslim emissaries, representing caliphs and sultans, are appointed from among confidants who are reputed for their knowledge, experienced and trustworthiness. They are also chosen for their external physical appearance, ability, courage and presence of mind. He also clarified that an emissary should be a man of insight in affairs, orthodoxy in religion, eminence and trusted among the Muslims and profound in the knowledge of law. According to him a non-Muslim may be selected as emissary of a Muslim state. Referring to the practice of the Prophet (SAW) that he had sent Amr ibn Umaiyah al-Zamari (who had not yet embraced Islam) as his envoy to the court of the Negus. But there are certain categories of people who are not fit to be selected as emissary. These included the Muslims punished for scandalizing respected ladies (Qazaf), minors, women, slaves, blind people, the immoral (Fâsiq), men of suspected or notoriously bad conduct, Muslims who are prisoners in the hands of the other state, Muslim traders in the territory of the other state, Muslim subjects of the other non-Muslim country.
This is a part of the diplomatic norms that the emissaries are to be given official letters addressed to the heads of state of the receiving countries. These letters served either as letters of credence, empowering the emissary to deliver an oral message or contained general statements on the purpose of the mission, indicating that the secret information was to be delivered orally by the emissary. Dr. Hamidullah has also the credit of discovering many of such letters which are given in his famous work *Majmū‘ah al-Wathā‘iq al-Siyāsiyah li al-‘Ahd al-Nabawī wal- Khilāfat al-Rāshidah.*

With regard to the reception of emissary of foreign state in Islamic country, Dr. Hamidullah was of the view that this practice also originated in the period of Prophet (SAW). The Prophet used to receive foreign envoys in the great mosque where the pillar of embassies (*Ustuwānt al-Wufūd*) still commemorates the place. It is recorded that Prophet and his companions had usually put on fine dress at the time of ceremonial reception of emissaries. Many large houses were also constructed in Madinah to serve the purpose of residence of foreign guests. The house of Ramlah bint al-Harith was popularly known as the *Dār al-Dhaifān* (guest house).

**Privileges of Emissary:**

**Protection of Life**

In view of Dr. Hamidullah, envoys along with those who are in their company will enjoy full personal immunity. They would be guaranteed protection of their life and name would be allowed to cause any harm to their
person. If envoys or any of his companions is a criminal of state from which he is sent, Muslim state will treat him only as envoy/ companion of envoy not a criminal.\(^{51}\)

**Religious Freedom**

In view of Dr. Hamidullah, Islamic law gives religious freedom to envoys. They are free to perform their prayers and observe their customs and traditions. It is recorded in the *Hadith* that Prophet Muhammad (SAW) allowed the delegation of the Christians of Najran to do their religious service in the *Masjid-e-Nabawi* according to their own belief.\(^{52}\)

**Exemption from Custom Duties**

Referring to al-Shaibani, Dr. Hamidullah pointed out that if a country exempts Muslim envoys from custom duties and other taxes, the envoys of that country will enjoy the same privileges in Muslim country. Otherwise, if the Muslim state desire, they may be required to pay ordinary dues like foreign visitor. In the same way the property of the envoys is exempt from import duties in Muslim territory, if reciprocated.\(^{53}\)

**4. Law of War:**

Dr. Muhammad Hamidullah gave much importance to the problems of war under international law of Islam. So, he discussed these problems in a detailed way. According to him, there may be different causes for hostile relations between two or more states. Some of these major causes included seizure of property of one state by another state and its people, detention of
ambassadors, occupation of the adversary’s territory. He was of the opinion that in case of hostile relations even before starting war, a state may block frontiers of the enemy country and prevent the entry and exit of the people. But, if war starts, the diplomatic relations with the hostile country may be broken off, ambassadors called back and implementation of treaty suspended.\(^{54}\)

Dr. Hamidullah was of the opinion that Islam not only considered war as an undesirable thing but had also laid down provisions for evaluating intention of Muslims to take part in war. In Islamic law, Muslims should join war with the intention of obeying the command of Allah. He also says that Muslims will take part in war only with the aim of establishment of Sovereignty of Allah on the earth and this war will be in the path of Allah.\(^{55}\) In this connection he cited the verse of Qur’\(\text{\'an}:\)

\begin{equation}
\text{إِنَّ اللَّهُ أَشَرَّرَ مِنَ الْمُؤْمِنِينَ أَنْفَسَهُمْ وَأَمْوَالَهُمْ بِانْدِلَابُهُمْ بِالْحَرَّةِ يَقْتَلُونَ فِي سَبِيلِ اللَّهِ يَقْتَلُونَ وَيُبْغَلُونَ وَيَعْدَّلُونَ حَقّاً فِي الْتَّوْرَاةِ وَالْإِنجِيلِ وَالْقُرْآنِ وَمِنْ أَوَّلِي بَعْضِهَا مِنْ اللَّهِ فَأَسْتَبْتَرَوا بِبَيْعٍ مُّبِينٍ}
\end{equation}

(Lo! Allah hath bought from the believers their lives and their wealth because paradise will be theirs: they shall fight in the path of Allah and shall slay and be slain. It is a promise which is binding on Him in the Torah and the Gospel and the Quran, and who fulfillth his covenant better than Allah? Rejoice then in your bargain that ye have made, for that is the supreme triumph).\(^{56}\)
Lawful wars

Discussing the permissibility of war in Islam, Dr. Hamidullah pointed out that war was permitted by the Islamic law only in the following conditions and that only these wars would be considered in the path of Allah.

The Continuation of an ongoing war:

Those wars may be considered lawful which are started after these have been stopped for some reasons like separation of both the parties without any formal treaty of peace, the suspension of warlike activities by mutual agreement for a fixed period etc. In support of his view he quoted the following verses:

(And when the months of immunity (on account of the treaty of peace) have passed, slay the associators wherever ye find them, and take them (Captive) and besiege them, and prepare for them each ambush)

Defensive War:

According to him defensive war is also permitted in Islam. This war may be waged when Muslim enemy either invades Muslim territory or behave in an unbearable manner. At that time, it becomes obligatory for Muslims to wage war for the security of their territory, community and system of government. In this connection, he cited the Quranic verse:

(1)
(Fight in the path of Allah against those who fight against you, but do not transgress. Lo! Allah Loveth not transgressors)\textsuperscript{60}

**Sympathetic War:**

If Muslims residing in non-Muslim foreign country, are subjected to atrocities and oppression by the government. A Muslim state which has no peace treaty and friendly relation with this country may defend Muslims against the atrocities of the non-Muslim state. He says that the Quranic directive for this war is quite clear in the following verses.\textsuperscript{61}

\begin{quote}
(And those who believe but have not left their homes, ye have no duty to protect till they leave their homes; but if they seek help from you in the matter of religion, then it is your duty to help (them) except against a folk between whom and you there is a treaty. Allah is seer of what ye do)\textsuperscript{62}
\end{quote}

(How should ye not fight for the cause of Allah and of the feeble among men and of the women and the children who are crying: Our Lord! Bring us forth out from this town of which the people are oppressors! Oh! Give us from Thy presence some protecting friend! Oh! Give us
from Thy presence some defender! Those who believe do battle for the cause of the Allah and those who disbelieve do battle for the cause of the Devil)\textsuperscript{63}

**Punitive War:**

If certain groups of people revolt against the Muslim state and disturb peaceful atmosphere. Islamic state, in view of Dr. Hamidullah, is permitted to wage war against such groups to suppress their revolt. This may be supported by the fact that Hazrat Abu Bakr (RA) waged war against the apostates and those who refused to pay Zakāt.\textsuperscript{64}

**Idealistic War:**

If any non-Muslim state creates obstacles in the way of preaching Islam by a Muslim state, the latter, in view of Dr. Hamidullah, is permitted to declare war against such non-Muslim state. This war will be considered in the path of Allah and this may be called “idealistic war”.\textsuperscript{65}

\begin{quote}
(He is who hath sent His Messenger (i.e. Muhammad) with the guidance and the religion of truth that He may cause it to prevail over all religions, however much the associators may be averse)\textsuperscript{66}
\end{quote}

\begin{quote}
(Ye (i.e. the Muslims) are the best community that hath been raised up for mankind. Ye enjoin right conduct and forbid indecency and ye believe in Allah)\textsuperscript{67}
\end{quote}
Declaration of War:

In modern international law, the declaration of war is necessary so as to prevent unnecessary loss to the country about which it is to be waged. In the view of Dr. Hamidullah, Islam is the only religion which instructed Muslim that no war could be waged without prior declaration or notification except defensive and punitive wars. Though, in other wars, Muslim must not attack on unbelievers before inviting them to accept Islam or to agree to pay the protection tax (Jizyah).

Dr. Hamidullah says, on the declaration of war, all friendly relations come to end between the belligerent states as well as their subjects. Diplomats are called back to their countries and forces of the state would be entitled to fight the enemy. Officials and private citizens will not be permitted to enter the enemy country, official and private citizens all are prohibited from giving the enemy any help, relief, comfort or information. The case of Hatib of Prophet’s time is the best example, who attempted to send information to the enemy regarding Muslim designs.

With regard to the economic dealing after declaration of war, Dr. Hamidullah was of the view that it is responsibility of Islamic state to return the trusts and debts to enemy state, after the war has been declared. In this connection he quoted the example of Prophet’s migration to Madinah. Prophet (SAW) had deputed his cousin Hazrat Ali (RA) to return all trusts of the Makkkan inhabitants to them. Similarly, when the Jews of Madinah were exiled, The Prophet (SAW) said that they could take all their belonging with them and
debts which were due over Muslims shall be paid at the time when they become due. Yet, if the Jewish bankers wanted an immediate repayment; they were at liberty to enter into new contacts with their Muslim clients by foregoing some percentage.⁷⁰

As regard the status of treaties and pacts after declaration of war. Dr. Hamidullah pointed out that all the treaties and pacts will not come to the end. The following details would make the point more clear.

1. Treaties which have achieved their aim such as fixing of boundaries and the like
2. Treaties of friendship and good neighbourliness, alliance and mutual assistance and the like are rendered null and void if such controlling parties choose to declare war upon each other.
3. The treaties which are concluded during the war for maintaining the mutual conduct.
4. The commercial pacts and the likes depend on the decision of the countries. There may be cancelled, suspended or modified.
5. There are some treaties which were suspended during the wartimes. These can be revived or retained after the end of the war such as the treaties of post and telegrams.⁷¹

Permitted and Forbidden Action during War

Permitted Action

Dr. Hamidullah has given the following actions which are permitted for
Muslim military during the war.

1. Enemy combatants might be killed, wounded, pursued and made captive. Attacks can be done at night. If any non-combatant is killed in such attacks, Muslim army will not be responsible for the cause.72

2. Ruses may be used for obscuring and discouraging the enemy, because the Prophet (SAW) said: "War is ruse. For this purpose, secret agencies may be also used for obtaining information about the enemy. False news can also be propagated for creating misunderstanding among the different sections of enemy and his allies. Money may be also used for creating conflicts among the sections of enemy. In this connection, Dr. Hamidullah quoted an incident of Prophet Muhammad (SAW). Once a famine was affecting Makkah and the Prophet sent a handsome contribution of five hundred gold coins towards the relief work. On this action many Makkan said “From this action Muhammad wants to win the affection of youngsters of Makkah”.73

It was a case of financial assistance to the non-Muslims affected by natural calamity on humanitarian ground. It seems unreasonable to cite it in support of the above matter.

3. To defend against the enemy, modern weapons may be made and used in warfare, as it is evident from the following.74

وأَعْرِضْنَا إِلَيْهِمْ عَنْ نُفُورٍ، وَمَنْ رَأَىٰ الْحَرْثَ لَا يَرْهَبُونَ بِهِ عَلَىٰ اللَّهِ وَعَهْدَ كُلِّ ذَٰلِكَ وَأَخْرَيْنِ مِنْ دُونِهِمْ لاَ تَعْلَمُنَّهُمْ اللهُ بَعْلُمَهُمْ (الأُنفُسَ ١٠)
(Against them make ready your strength to the utmost of your power, including steed of war, to strike terror into (the heart of) the enemies of Allah and your enemies and other besides whom you may not know but whom Allah doth know)\textsuperscript{75}

**Forbidden Action**

Apart from discussing the permissible things during war, Dr. Hamidullah has also given details about those actions which are forbidden in Islamic law in the same situation. Some of them may be discussed as:

1. Cruel and tortuous ways of killing, killing of non-combatants. It is permitted to kill only those who are able to fight physically. Women, minors, servants, slaves, the blind, monks hermits and very old persons are exempted from killing. Traders, merchants, contractors and the like are to be spared, if they do not take part in actual fighting.

2. Devastation, destruction of harvest and cutting trees unnecessarily

3. Parents will not be killed, even if they are non-Muslims and in the enemy army. Burning a captured man or animal to death and the use of poisonous arrows is forbidden.\textsuperscript{76}

**Treatment with Prisoners of War:**

Dr. Hamidullah pointed out that prisoners would not be killed as it is established by a consensus of the companions of the Prophet (SAW).\textsuperscript{77}

However, those prisoners whose actions are detrimental to the interest of the
state can be punished according to the nature of their crimes. The prisoners will be treated well and be provided all necessary facilities. Their problems would be tackled with sympathetically. The Sunnah of the Prophet (SAW) is quite clear about this point. The Prophet (SAW) is reported to have said with regard to the prisoners of the battle of Badr: "Take heed of the recommendation to treat the prisoners fairly". The learned author also quoted the view of Imam Abu Yusuf that prisoners must be fed and well treated until a decision is taken about them. Moreover, it was also clarified by him that Islamic law leaves it at the discretion of Islamic state to behead, enslave, release on paying ransom, or exchange them with Muslim prisoners of war.

With regard to the Muslims prisoners captured by enemy, Dr. Hamidullah was of the view that they were under no obligation to submit or obey the orders of the enemy; if they were able to escape or destroy the enemy property, they should do so. This is obligatory on Muslim prisoners to refuse to provide information to enemy, to take part in war against Islam and to abandon their faith unless forced to do so. He further stated that it was duty of Muslim state to seek their release by giving money from public treasury, as it is prescribed in the Qur'an that a portion of the state income is to be spent for freeing the necks (Fi al-Riqab) which means seeking freedom of prisoners and slaves through state resources.
(Alms are for the poor and the needy, and those employed to administer the (funds): for those whose hearts have been (recently) reconciled (to truth), for those in bondage and in debt, in the cause of Allah, and for the wayfarer: (Thus it is) ordained by Allah). 81

Property of the Conquered People

As regards the property captured from the enemy. Dr. Hamidullah was of the view that it would be at the discretion of Muslim ruler. He may distribute it as booty or preserve as state property or may leave to its former owner. In this connection, he says that Prophet (SAW) sometime distributed the conquered land among the victorious army as booty (Ghanimah), while in some cases he had handed over the property to the vanquished ones. 82

With regard to the right of non-Muslims over the property of the Muslims captured by them, Dr. Hamidullah observed that the latter had the same right as held by Muslims in similar cases. A non-Muslim is authorised to sell or dispose of the property of Muslims captured by him. 83

Regarding the postliminium (return of things), it is opinion of Dr. Hamidullah: "if anything in a case possessed by Muslim was captured by enemy and was again taken back by the Muslim army. It had to be handed over to the ex-owner (enemy) upon production of proof before distribution of the booty. If it is distributed before the ownership was proved then the ex-owner may acquire it from the new owner upon payment of its cost". 84
With regard to the duration of treaty, the jurists have different opinions. According to Dr. Hamidullah most of the jurists are of the opinion that the maximum period of treaty should be ten years as was established by the treaty of Hudaibiyah. In his view, the ruler is the supreme authority for finalising the clauses of the treaty. If he is not available at the time of concluding of the treaty, then any other competent authority will ratify the treaty.85

Dr. Hamidullah was of the view that the treaty should be preserved in written form and should contain the date of the writing of the treaty and the date on which it comes into force, duration of the treaty, solemn promises for the observance and execution of the treaty, the signature of the duly authorised persons and the sanction for execution. Apart from concluding new treaty, the former treaties may be amended in part at any time by mutual consent of the parties concerned.86

He further explained that a treaty get legal sanction if it comes into existence with the consent of the two states. Its terms and conditions will remain binding for the entire duration of the treaty and these will become part of our law. He writes “In this way (treaty), the conditions and obligations agreed upon and accepted by Islamic state would become part of Islamic law and state will be bound to follow them during the operative period of treaty”.87

In view of Dr. Hamidullah truces may be divide into four categories according to the limit of time and areas.
1. The first one is the truce in which time and area of operation are fixed and limited. This generally occurs during war in battlefield, so that the parties may carry on parleys, bury the dead or take precaution against common danger such as flood etc.

2. The second may be for a fixed place but for unlimited time. He says that this type truce was not available in early Islamic history but capitulations of Ottoman Empire with European power especially France can be cited in this respect. In this capitulation sultan Sulaiman granted rights and privileges to the subjects Christian nations for residing and trading in Ottoman kingdom.

3. The third one is for a fixed period and unlimited area. This type of truce may be an opportunity to conclude an agreement of peace after negotiation. It is also possible that after the end of the period of this treaty, both the parties have liberty to attack at each other without prior permission or declaration. The most important example of this kind of truce is that of Hudaibiyah concluded between the Prophet (SAW) and the Makkans, which brought peace for a fixed period often years.

4. The forth and the last kind of truce is for unlimited in term of time and place. This usually comes into being at the end of war, when one was vanquished or both the parties were exhausted. With regard to the authority to make truce for a limited period in a limited area, Dr. Hamidullah was of the view that this authority truce rests with
the commander-in-chief of Muslim army. The other three kinds of truce may be
concluded by the central government or its authorised officers. 89

5. Law of Neutrality:

Neutrality in Islam:

Where a state does not join war between two countries and maintains
peace with both the warring countries, such state is considered neutral and this
stand is called neutrality. Orientalists and western writers generally hold the
view that there is no place of neutrality in Islamic International law. They say
that Islam divides the word only into two parts viz: Dār al-Islām and Dār al-
Harab and it does not admit any other part between them. But with the
reference to the original sources, Dr. Hamidullah has refuted their view and
cited the following Quranic verses which direct the Muslims to take care of
those states who had remained neutral.

إِلاَّ الْأَلْبَدِينَ عَغاَضِدَهُمْ مَنْ الْمُحْتَزَّمِينَ، مَنْ لَمْ يَنْفَصُّوا كُلْمَهْ، مِنْهُمْ مُّقَدَّمَةً وَلَمْ يَظَاهرُوا عَلَيْهِمْ أَحَدًا فَأَزَامُوا إِلَيْهِمْ

(Excepting those of the idolaters with whom ye (Muslims) have a
treaty, and who have since abated nothing of your rights nor have
supported anyone against you. (As for those), fulfil their treaty to them
till their term. Lo! Allah loveth those who keep their duty (unto
Him)) 90

لا يَحْصَبُهُمْ مَنْ الْأَلْبَدِينَ مَنْ لَمْ يَقَأَلُوا كُفُومُهُمْ فِي الْذَّغِينَ وَلَمْ يَحْرَجَهُمْ مِنْ دِيَارَهُمْ أَنْ يَتَرَوْهُم وَيُفْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحْبِبُ الْمُقَسَّمِينَ إِنَّمَا يَحْصُبُهُمْ مَنْ الْدِّينِ مَنْ قَأَلَلَهُمْ كُفُومُهُمْ فِي الْذَّغِينَ وأَحْرَجَهُمْ مِنْ دِيَارَهُمْ وَظَهَرَهُمْ عَلَى إِخْرَاجِهِمْ أَنْ يَتَرَوْهُم وَمَنْ يَتَوَلَّيْهِمْ فَأَعْلَى هُمْ الطَّالِمُونَ (المغطاة / 9-8)
(Allah forbiddeth you not regarding those who warred not against you on account of religion and drove you not out from your homes, that ye should show them kindness and deal justly with them. Lo! Allah loveth the just. Allah forbiddeth you only regarding those who warred against you on account of religion and have driven you out from your homes and helped to drive you out, that ye make friends of them. Whosoever maketh friends of them-(all such are wrong doers))

Moreover, Dr. Hamidullah referred to another verse in which the term I’tizal was used and he thought that it meant neutrality.

(Except those who seek refuge with a people between whom and you there is a covenant, or (those who) come unto you because their hearts forbid them to make war on you or to make war their own folk. Had Allah willed, He could have given them power over you so that assuredly they would have fought you. So, if they remain neutral regarding you (I’tazalûkum) and wage not war against you and offer you peace, Allah alloweth you no way against them).  

Moreover, the following Ahadîth also defines clear provision for neutrality.

1. The Prophet (SAW) is reported to have said that soon civil wars would ensue among the Muslims community and the pious believer would be...
the one who would sit at home during the unrest and would take part with neither faction (I'tazala). The narrator adds, it was owing to this Hadith that many a pious Muslims remained neutral during the war between Hazrat Ali (RA) and Hazrat Muawiyah (RA)

2. The Prophet (SAW) is said to have predicted that towards the last days of the world, a terrible fight would break out between the believers and Rumis (Westerners). The Rumis would make this offer to one Muslim group: “Let us fight alone against those Muslims who have captured our wives and children”. The Muslim group would reply: “No! We can not desert our brethren”. This war would seal the end of the power of the Rumis.93

In addition to the above Dr. Hamidullah has made references to those treaties which were concluded between Prophet (SAW) and different tribes of Madinah for neutral behaviour. For instance, in the war of between Banu al-Nazir and Muslims, Banu Quraizah remained neutral. Similarly, Ghatafan was neutral in the war between Muslims and Banu al-Nazir of Khaibar. Besides, many treaties were concluded with different tribes residing around Madinah on the basis of neutrality to consolidate the Muslim power. The treaty with Banu Zamrah shows that the Muslims agreed that they would not attack Banu Zamrah, nor would help its enemies and vice versa. Another treaty concluded between Prophet and Banu Ghifar (who lived near the sea coast of the Red sea) had assurance from the Prophet for helping Banu Ghifar if any one or tribe attacked them. If the Prophet required their help, they will help, except in wars
waged in the name of the religion. Moreover, he says that a special word *islāl* was also used in the treaty of Hudaibiyah for the provisions of neutrality which signified the unsheathing of sword as well as violation of neutrality and secret help to the enemy of the other contacting parties.\(^94\)

In view of these evidences, Dr. Hamidullah’s standpoint is quite right that Islamic international law had clear provision for neutrality.

**Law of Neutrality:**

Referring to Al-Sharakhi’s *Sharah al-Siyar al-Kabīr*, Dr. Hamidullah brought out important laws of neutrality. Some of them may be given as:

1. If the two states are at war, they are duty bound not to start the same against the neutral state. The war can be carried on only in the territories of warring states, high seas and in those areas which belong to none. Moreover, the warring states are supposed to respect the territory of neutral states including land and waters.\(^95\)

2. It is obligatory on the warring states to keep away from waging war in the territory of neutral state.\(^96\)

3. If the neutrality of any state is violated by the warring states, they are bound to pay indemnity.\(^97\)

4. If a state has concluded a treaty of peace with the Muslims and is attacked by a third state which made them prisoners, and subsequently the Muslims waged an independent war against this state and captured the prisoners of their friendly state, they would be slaves of the
Muslims. For the third state had not violated the jurisdiction of the Muslim state in capturing them. If the third state secures its capture, it will become the rightful owner of the same.  

5. If Muslim citizens are staying in a foreign country which is attacked by a third state, they must not fight against that state (which is at peace with the Muslim state) except when they find themselves in danger. In this case, they may fight against that third state for self defence.  

6. If a formidable force enters Muslim territory with permission in order to cross to another territory to fight their enemies they can be attacked while in the Muslim territory by an enemy. The Muslim state has no responsibility to defend them against their enemy.  

7. “If the subjects of a foreign country come to the Islamic territory by permission and intend to proceed to a third state at war with the Muslims, in order to join forces with them against the Muslim state, passage will be denied to them. For the passport secured for them only freedom of stay and freedom of return to their own country. Beyond this, the Muslim state is right in denying them all that is harmful to the Muslims. No doubt if one or two of them want to proceed to the third state for commercial purposes, this may be allowed for the same case. But the case would be different if they are a formidable force”.

It is clear from above discussion that Dr. Hamidullah presented principles of Islamic international law on different aspects of peace, war and neutrality. In the concept of peace, he dwelt at length the principles of
sovereignty, independence, jurisdiction and diplomatic relations. In war, he brought to forth the laws of commencement of war, kinds of war, declaration of war, prisoners of war international treaties, termination of war and its effects. The learned scholar has discussed the concept of neutrality in the light of Qur'an, Hadith and historical facts and has examined the principles under which the neutral behaviour can be accepted.
Notes and References


2. Ibid, pp. 5-7


6. Ibid, pp. 288-289


9. Ibid, p. 4


13. Ibid, pp. 166-167

15. Ibid, p. 168


18. Muhammad Hamidullah, *Muslim Conduct of State*, op.cit., pp. 77-78


22. Ibid. p. 93 ; Muhammad Hamidullah, *Qanûn Bain al-Mumâlik ke Usûl aur Naziren*, op. cit., pp. 80-87


27. Muhammad Hamidullah, “Islamic Notion of Conflict of Laws”, op. cit., pp. 119-120

28. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 171

29. Ibid, pp. 171-172
30. Ibid

31. Ibid, p. 201

32. Ibid, p. 127

33. Ibid, pp. 208-211

34. Ibid, p. 129

35. Ibid, pp. 201-202

36. Ibid, p. 128

37. Ibid, pp. 114-115

38. Ibid, pp. 116-118

39. Ibid, pp. 123-124

40. Ibid, p. 106

41. Ibid, pp. 106-107

42. Ibid, pp. 148-149

43. Ibid, p. 143

44. Ibid, pp. 143-144

45. Ibid, p. 145

46. Ibid, p. 152

47. Muhammad Hamidullah, *Rasūl-e-Akram kī Siyāsī Zindagī*. op. cit., p. 128


52. Ibid, p. 109; Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., pp. 147-148

53. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 148


55. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 162


57. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 164

58. Ibid.


61. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 165

62. Ibid, p. 166

63. Ibid

64. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., pp. 166-167
65. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 167

66. Ibid.

67. Ibid.


70. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., pp. 196-197

71. Ibid, pp. 198-199

72. Ibid, p. 223 and 227

73. Ibid, pp. 223- 224

74. Ibid, p. 225


76. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., pp. 204-207

77. Ibid, 214

78. Ibid, p. 215

79. Ibid, p. 216

80. Ibid, p. 212


82. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 23

83. Ibid, pp. 251-252
84. Ibid, p. 252


87. Muhammad Hamidullah, *Khutbāt-e-Bahāwalpur*, op. cit., p. 100 & 343

88. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 263

89. Ibid, p. 264

90. Ibid, p. 292

91. Ibid

92. Ibid

93. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 290

94. Ibid, pp. 294-300


96. Ibid, p. 165

97. Ibid, p. 167

98. Muhammad Hamidullah, *Muslim Conduct of State*, op. cit., p. 302

99. Ibid, p. 303

100. Ibid