



Changes within Islamic International Law: A Comparative Study between the Views of Ayatullah Khamenei and Shaykh Zuḥaylī Hamid-Reza Tousi¹



Research Article

Abstract

The primary focus of this research is to elucidate the views of two esteemed contemporary Qurānic exegetes and jurists regarding changes that have occurred in Islamic international law. Islamic international law, also known as *siyar* (lit. conducts), has, for a long period, not seen the same sort of expansion and change witnessed in the methods and subject-matters of current international relations. Some of these failings are related to the methodology of this Islamic and international discipline lacking relevant development.

In the present research, which has been conducted in a descriptive-analytical manner, the theoretical foundations and legal workings of the two mentioned scholars have been compared based upon the most important subject of international law, i.e., the international relations of Islamic countries with their counterparts in the two areas of war and peace.

The findings of this research, conducted as a comparative study, indicate that the views of Ayatullah Khamenei are resolutely sound, as they are based on a well-grounded method in understanding the verses of the Glorious Qur'ān and on a new and precise analysis of expediency that runs parallel with the apparent meanings of the verses dealing with war and peace. This, in its own place, has the potential to generate substantial changes in the field of Islamic international law and create avenues for it to have appropriate interactions with current international law.

Keywords: Islamic International Law, Ayatullah Khamenei, Shaykh Zuḥaylī, expediency-orientated, principles of methodology.

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Introduction

Scholars of Islamic international law have, with attention to the various Qurānic teachings concerning the conditions of relations between Islamic states and others, taken an exegetical-jurisprudential approach in the manner of how they collaborated the meanings of those verses related to the topic of *siyar*. In the field of international relations, the science known as *siyar* was first adopted within jurisprudence and was discussed within the works of the past scholars in a method that was inspired by both jurisprudence and exegesis. During the first period of its formation, the subjects of this science were concerned with war (*jihad and maghazī*) (Armanāzī 1930, pp. 44-45). Similarly, they were derived from the actions of the Muslim rulers that came after the Noble Prophet (ﷺ) (Muhaqqiq Dāmād 2007, 25). Initially, this science came to the fore by means of historical writings, as stated by scholars like Ibn Hishām, that mentioned the good speech and mannerisms of the Noble Prophet (ﷺ) and his commandments concerning war and peace, i.e., the study of prophetic conduct. However, this concept later on expanded and found a more general meaning that included all the orders related to matters of war and peace and the treaties signed with neighboring states, be it during the time of the Noble Prophet (ﷺ) or after it, as seen in the works of Shaybānī and Sarakhsī. In the last two centuries, scholars such as Majīd Khudwarī and Prof. Hamīdullah, using a jurisprudential approach focused on contemporary international law, have presented new explanations for the conditions of Islamic international law, based on the opinions of the jurists.

Furthermore, there are some Muslim lawmakers, who have studied in Western universities who, because of the lack of attention they have given to the method and contents of this science, have gone to the extreme and have ‘proved’ that Islamic law, specifically the science of Islamic international law must, in a particular or complete manner, submit to the standards proposed by the recently formulated international law (Afsah 2008, 259-307; al-Na’im 1987, 317-336).



With the emergence of new issues and topics within contemporary international law, such as the primacy of war and peace, the principles of humanitarian law, the legitimacy of international agreements, etc., some Islamic jurists and exegetes, including Ayatullah Khamenei and Shaykh Wahbah al-Zuḥaylī, have taken it upon themselves to greater utilize a Qur’ān-orientated approach, while still remaining truthful to traditional methodologies. The utilization of this kind of multi-discipline method has the potential for providing answers to new issues that emerge within the field of Islamic international law.

The present research focuses solely on changes that have occurred with Islamic international law regarding the rules of war and peace. The choosing of these two jurists and exegetes was not solely because of their expertise in the fields of jurisprudence and exegesis, but also because of their Qur’ān-orientated analysis and application towards current political and legal events. The opinions of both scholars with regards to the changes in Islamic international law are Qur’ān-orientated. This research seeks to answer this question: What methods has Islamic international law, combined with divine teachings, used to normalize the new discussions emerging from public international law?

Literature Review

There has been academic work done attempting to abstract the exegetical opinions of Ayatullah Khamenei regarding international relations with other countries. As an example, mention can be made of the following Persian articles: *Barrasī Şulḥ dar Andīsheh Qur’ānī Imām Khamenei bar asās Rawish Taḥlīl Muḥtawā*, written by Ruḥullāh Dāvarī, Muḥammad Taqī Diyārī Bīdḡulī and Riḍā Jamālī (2023) in the journal of *Quran wa ‘Ilm*; *Barrasī Tafsīr Siyāsī Mafāhīm Qur’ānī dar Dawrān Inqilāb Islāmī az Manẓar Ayatullāh Khamenei*, by ‘Alī Riḍā Dānīshyār (2018) in the journal of *Muṭālī‘āt Inqalāb Islāmī*; *Andīsheh Şulḥ dar Manẓumah Fikrī Ayatullāh Khamenei*, by Maḥdī Ja‘farī Panāh and Yūsuf Khān Muḥammadī (2020) in the journal of *Muṭālī‘āt Inqilāb Islāmī*; *Mantiq Hākīm bar Şulḥ wa Rahkār hā ye Dastyābī bih Tafakkur Şulḥ Āmīz Islāmī*



az Dīdgāh Imām Khamenei, by Ma'sūmah Ismā'īlī (2022) in the journal of *Ma'rifat-e Siyāsī*. The book titled, *Marūrī bar Mabānī Rawish wa Qawā'id Tafsīrī Hazrat Ayatullāh al-Uzmā Khamenei dar Tafsīr Sūrah Tawbah* (2014), written by Ayatullah Khamenei can also be mentioned.

In English, the article titled, *Semantic study of al-harb words in the Qur'an according to the al-Zuhaili Wahbah*, written by Ahmad Ridla Syahida (2019) and published in Indonesia in the *International Journal of Islamic Khazanah* is also worthy of mention. In this article, the author opines that the exegetical method of al-Zuḥaylī is analytical and subject-wise.

Another work that can be mentioned is the book, *al-'Alāqāt al-Dawalīyyah fi al-Islām: Muqārinah bi al-Qānūn al-Dawalī al-Ḥadīth* (1996), written by Shaykh Wahbah al-Zuḥaylī. In this book, he expands on his opinions regarding Islamic international law in a general sense and international law relations with regards to war and peace.

Considering these works, none have studied nor compared the fundamental and methodological opinions of Ayatullah Khamenei and Shaykh al-Zuḥaylī.

Brief Academic Biographies of Ayatullah Khamenei and Shaykh al-Zuḥaylī

Ayatullah Sayyid Ali Khamenei pursued his studies in the cities of Mashhad, Qum, and Najaf. He studied under esteemed teachers, such as Ayatullah Sayyid Muḥammad Hādī Mīlānī, Ayatullah Sayyid Ḥusayn Burūjurdī, Imām Khomeini, Shaykh Murtaḍā Ḥā'irī Yazdī, Sayyid Muḥammad Muḥaqqiq Dāmād and Allāmah Ṭabātabā'ī. While teaching the advanced levels of jurisprudence and the principles of jurisprudence, he also conducted Qur'ānic exegetical sessions for the general public. In these sessions, he derived and explained the fundamentals of Islamic thought from the verses of the Glorious Qur'ān. A series of books on jurisprudence, covering various subjects, including, *jihad*, *qisās*, *makāsib muḥarramah*, and *ṣalāt-i musāfir*, were published based on his lessons on



these subjects. However, his most important works and translations are, *Chahār Kitāb Aṣlī 'Ilm Rijāl, Tarḥ Kullī Andīsheh Islāmī dar Qur'ān, Āyandeh dar Qalamraw Islām* and *Tafsīr fī Zilāl al-Qur'ān* (both written by Sayyid Quṭb), and *Sulḥ Imām Ḥasan: Purshakuh tarīn Narmmish Qahrmānānah ye Tārīkh* (written by Shaykh Rādī Āl Yāsīn) (Extracted from <https://khamenei.ir>).

Shaykh Wahbah Zuḥaylī pursued his studies in Syria and Egypt, completing his advanced-level education at the universities of al-Azhar and 'Ayn al-Shams. His most famous work is his 16-volume Qur'ānic exegesis titled, *al-Munīr*. This book was written in Arabic and is counted amongst the most important contemporary Qur'ānic exegeses. His other notable works are *Usūl al-Fiqh al-Islāmī* in two volumes, *al-Fiqh al-Islāmī wa Adillatahu* in eight volumes, and *Āthār al-Ḥarb fī Fiqh al-Islāmī: Darāsah Muqāranah* (<https://rch.ac.ir/article/Details/۱۴۵۲۴>).

Conceptual Framework

1. The Science of *Siyar*

Muslim scholars have derived and structured the rules of interaction between an Islamic state and others in a discipline known as *siyar*. By analyzing the usage of this term in the various Islamic fields, such as *jihād* (holy war), *maghazī* (accounts of Prophet Muḥammad's campaigns to establish the early Islamic state) or even *kharāj* (land tax), and *siyāsah al-sharī'ah* (legitimate policy), it becomes clear that it is a simple and undisputed concept cannot be derived from it. Nevertheless, the subject matter of this discipline is the relations between an Islamic state with its citizens and other states (Sarakhsī 1996, 1:5).

2. International Agreements and Treaties

In international law a treaty is a binding written agreement between two states that is subject to international law. This can occur with one or multiple related contracts, regardless of their headings (Ḍiyā'ī Bīgdilī



2023, 105). However, the term treaty in Islamic jurisprudence is synonymous with terms such as *muhādanah*, *muwāda‘ah* and *mu‘āhadah* (Hillī 1980, 2:352).

This concept in Islamic international law does really differ greatly from what is discussed in international treaty law, as the main element of this definition is the agreement between states, as per the 1969 Vienna Convention (Zuḥaylī 1998, 348). However, it seems that the scope of this concept within Islamic jurisprudence is wider than what is proposed here, i.e., it includes treaties that are not state-based (ibid). As, in its specific technical meaning, *muwāda‘ah* (refraining from relations of enmity) is said to be between Muslims and polytheists for a set period of time (Sarakhasī 1996, 5:62).

Theoretical Foundations of Ayatullah Khamenei’s Thought

In the various areas within peaceful international relations, such as the conditions of *mu‘āhadah* and the exception of truce, etc., Ayatullah Khamenei utilizes the following intellectual foundations to form his opinions.

1. Methodological Foundations

Ayatullah Khamenei bases his opinions on textual inference.

The Correlation between the Judgement and Subject

This principle occurs when a specific proof exists within the Islamic sources and from the correlation between the judgment and the subject that is present in it, the reasons behind the ruling by the lawgiver can be derived. What is intended by this principle is that when an Islamic legal ruling is established, the correlations and criteria that are required for such a ruling instinctively come to the fore of an individual’s mind. This happens in a manner based on general common understanding. This correlation can result in the generalization or specification of the ruling (Ṣadr 1996, 1:457).

In addition, when a specific reason for understanding, other than generalization or specification (1997, 1:257) becomes the reason for the acceptance of the apparent meaning, every apparent meaning is authoritative. Therefore, the correlation between the judgment and the subject that is present in it can be the means for the removal of conditions within a specific ruling. This correlation can be seen as a rational context connected to speech that is the source for the apparent meaning in the textual proof (Ṣadr 1971, 1:55). This principle is the analytical foundation for Ayatullah Khamenei's opinion regarding the primacy of international relations, as he himself has indicated such, "...the correlation between the judgement and the subject that is present in it...has obliged us to accept that *jihad* (religious struggle) is a rule and that peace is the exception..." (Khamenei 1997, 15). In his opinion, the permissibility of *mu'āhadah* is conditional on there being at least some expediency in it...this condition can be derived from the principle of the correlation between the judgment and the subject that is present in it (ibid, pp. 17-24).

The Contextual Paradigm and Consistency of the Qur'ānic Verses

This type of indication and proof is considered an intellectual indication by the scholars of rhetoric, while the scholars of logic consider it a necessary indication. This form of indication must be clear and unambiguous. It is also a type that necessitates that the intellect draws the necessary conclusions from the words of the text. It is also imperative that this necessary drawing of conclusions from the text to another meaning is one that is closely linked, as using it to indicate a distant meaning is very likely to deviate a person from the intended meaning. Under such conditions, it is obvious that other indications take precedence over context. The authoritative nature of this indication is based on the authoritativeness of the apparent meaning of a text (Najafī Khumaynī 1969, 8:133-134).

Ayatullah Khamenei has utilized this principle in presenting his analysis on the Qur'ānic verses with regards to the primacy of international



relations. With regards to the contextual paradigm for understanding the Qur'ānic verses, he has said, 'The contextual indication regarding the rulings of *jihad* and *ṣulḥ* (peace) has obliged us to accept that *jihad* is a rule and that peace is the exception...' (Khamenei 1997, 13).

1.3. Proposition Analysis: Truth (*Ḥaqiqīyyah*) and Actuality (*Kharījīyyah*)

Another innovative method used by Ayatullah Khamenei in analyzing those Qur'ānic verses that indicate legal international relations is his analysis of the proposition that is alluded to within the verses that deal with war and peace. For example, he has used this method in analyzing the following verse,

﴿فَإِذَا انْسَلَخَ الْأَشْهُرُ الْحُرْمُ فَاقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ وَخُذُوهُمْ وَأَحْصُرُوهُمْ
وَأَقْعُدُوا لَهُمْ كُلَّ مَرْصِدٍ فَإِن تَابُوا وَأَقَامُوا الصَّلَاةَ وَآتَوُا الزَّكَاةَ فَخَلُّوا سَبِيلَهُمْ إِنَّ اللَّهَ
عَفُورٌ رَّحِيمٌ﴾ (التوبة/ ٥)

“Then, when the sacred months have passed, kill the polytheists wherever you find them, capture them and besiege them, and lie in wait for them at every ambush. But if they repent, and maintain the prayer and give the zakat, then let them alone. Indeed Allah is all-forgiving, all-merciful.” (Qur’ān 9:5)

It has been claimed that the verse is based on a truth proposition, i.e., it intends to explain a universal law and ruling that is applicable at all times and against all unbelievers. This is similar to other verses that deal with war, such as the verse,

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا قَاتِلُوا الَّذِينَ يَلُونَكُمْ مِنَ الْكُفَّارِ وَلِيَجِدُوا فِيكُمْ غِلْظَةً وَأَعْلَمُوا أَنَّ اللَّهَ
مَعَ الْمُتَّقِينَ﴾ (التوبة/ ١٢٣)

“O you who have faith! Fight the faithless who are in your vicinity, and let them find severity in you, and know that Allah is with the Godwary.” (Qur’ān 9:123)

Which is not exclusive to the unbelievers of that particular time that were with the Muslims...this is the essence of a truth proposition; it aims to explain a universal ruling that is applicable at all times and places where the subject of the subject finds actuality. Therefore, it is by means of the first verse (Quran 9:5) that the ruling for fighting with the unbelievers after the passing of the sacred months every year is established. Evidently, what is meant by the sacred months are the four known months or the three months that are attached to each other, namely, *Dhul Qa’dah*, *Dhul Hijjah*, and *Muḥarram*. However, it cannot be accepted that what is meant by the verse is just those four months [of that year]. This matter, by looking closer at the verse in question and the logical connection it has with the verses that come before it, becomes clearer...it is the content of the beginning verses of *Sūrat al-Tawbah* and as you can see, it contains a specific ruling concerning a particular group of unbelievers, i.e., the polytheists of Makkah and the other cities within the Hijaz during a specific time. It is not a universal ruling that includes all the unbelievers at all times. It is a proposition of actuality and its ruling is limited to a specific instance in the external world. Hence, you see that the mentioned verses give a ruling regarding those unbelievers who are friendly and tolerant and who hide their enmity, that a treaty should not be signed with them. However, the jurists have not given an edict based on this matter. The only proof for this matter is that the ruling concerning this verse is not in the contextual paradigm of a proposition of truth.

With such an understanding from the verses, any person can clearly derive that what is then meant by the sacred months mentioned in the verse are not the four known months, but rather only that specific time that Allah has given them respite to move in safety, and that no believer has the right to interfere with them...In summary, from what has been mentioned previously, it becomes clear that using verse (Quran 9:5) as proof for



establishing the prohibition of ‘*hudnah*’ (an armistice) for a year or longer is incorrect. The verse is pointing to another matter and therefore, it cannot be used to prove this issue (Khamenei 1997, 21). From the above, it can be seen how this method has been utilized to establish the length of peace and truce.

2. Definition and Essence of a Peace Treaty

Regarding the essence of a peace treaty, Ayatullah Khamenei writes, “An armistice agreement can be signed with a state and its citizens with whom we are at war. This is while an agreement of *jizyah* is signed with non-believers who have surrendered and are under the protection of the Islamic government. This is the key difference between these two agreements. Another key difference is in their rules and guidelines...” (Khamenei 1997, 8). It is based on this that one of the consequences of a peace treaty or armistice agreement is its being only temporary.

By having a firm understanding of the differences between local and international agreements, such as a peace treaty, he writes the following in his discussion concerning the placing of conditions during an agreement, providing a more precise definition of this legal structure:

In the discussion on armistice, there is no place for acceptance in that previous meaning. This is because it is an issue that must take the benefit and future of Islamic society into consideration. Therefore, in this issue, the acceptance of a particular individual or the signatory is not of importance. Therefore, the negation of this condition in this instance does not create a problem, as it was prescribed as a means to solve issues within agreements... the following scenario can be assumed that a business transaction is occurring between a state or a group and another party...the representative of the state or group does the transaction and his acceptance is seen as the acceptance of the state or group and its actualization then becomes the criteria and condition for the validity or invalidity of the transaction. (ibid, 59)

3. The Centrality of Expediency

The centrality of expediency is a crucial element in the political theory of Ayatullah Khamenei. The first issue that can be mentioned is the establishment of the conditional right to nullify a peace treaty. By opposing the opinion of some of the jurists (Hillī 1992, 2:974), Ayatullah Khamenei establishes a condition that provides both parties of a peace agreement the right to nullify the agreement. According to him, primarily, the right to nullify can oppose the objectives of the peace treaty, however, if the scenario changes the ability to void the contract is expedient with the existence of such a condition and, with the removal of the reason for its existence, the established of such is seen as unjustifiable (Khamenei 1997, 31).

The second issue that the expedient central opinions of Ayatullah Khamenei shed light on is the classification of expediencies in the international relations of Islamic states and their effects. In his opinion, the expediency that is expressed within a peace treaty is of two types: the expediency that stems from the weakness of the Muslims and other expediencies, such as the creation of a positive atmosphere for Muslims on a global scale or the completion of proof against the unbelievers, or the creation of an environment by which they are attracted to Islam. By means of this classification, the establishment of the right to nullify an agreement, with reference to the verse, "...and Allah will never provide the faithless any way [to prevail] over the faithful"² (Qur'ān 4:141) is void of legitimacy. However, if the treaty is founded on the expediency that is from the second group, then the reason for having a truce (*muhādanah*) is not negated (Khamenei 1997, 32).

The third issue that is affected by this view of Ayatullah Khamenei is the determining of the length of a peace treaty. Based on his expedient

². ﴿...وَلَنْ يَجْعَلَ اللَّهُ لِلْكَافِرِينَ عَلَى الْمُؤْمِنِينَ سَبِيلًا﴾ (النساء/ ١٤١)



central view, he writes, “Therefore, wherever there is expediency and benefit, the signing of a peace agreement for a period of one year or more is permissible, as it has been proven that the permissibility of a peace agreement is conditional on the existence of expediency” (ibid, 21). So, with the existence of the primary condition of a *muhādanah*, i.e., the existence of expediency, the duration of a peace treaty can be for a year or even longer.

The fourth issue in which the footprints of this view can be seen is in his realistic analysis of the reciprocal nullification of an agreement. In contrast to many jurists and exegetes, he views the foundation for reciprocal nullification, as mentioned in the verse, “And if you fear treachery from a people, break off [the treaty] with them in a like manner. Indeed Allah does not like the treacherous”³ (Qur’ān 8:58) to be expediency (Khamenei 1997, 70). Regarding this, he writes:

How often do we find that the negation of an act is not to the expediency or benefit of the Muslims. Therefore, it is incumbent that the leader, as per the Glorious Qur’ān, break the treaty, i.e., to inform the enemies that because of their breaking of the agreement, there is no longer an agreement between him and them. It is also possible to claim that the imperative form of the verb mentioned in the verse does not signify obligation, but rather it signifies that such an act is permissible for the leader of the Muslims...However, the breaking of an agreement must follow expediency, and that is at the discretion of the leader. The verse aims to show just this, Hence, the use of the term ‘break’ (*nabdh*) in the verse does not mean to negate, but rather to throw or let go, thus rendering the meaning of the verse to be to throw the agreement back at the enemy, or to announce and inform them of it. (ibid, 70)

3. ﴿وَأِمَّا تَخَافَنَّ مِنْ قَوْمٍ خِيَانَةً فَانْبِذْ إِلَيْهِمْ عَلَى سَوَاءٍ إِنَّ اللَّهَ لَا يُحِبُّ الْخَائِنِينَ﴾ (الأنفال/ ٥٨)

Theoretical Foundations of Shaykh Zuḥaylī's Thought

The theoretical foundations of Shaykh Zuḥaylī's thought and his Qur'ānic methodology will be explained and analyzed below.

1. Methodological Foundations

Shaykh Zuḥaylī, as Ayatullah Khamenei, bases his Qur'ānic understanding and analysis of the verses that deal with war and peace on certain methodological foundations.

1.1. The Contextual Paradigm and Consistency of the Qur'ānic Verses

Shaykh Zuḥaylī has predominately used this textual principle in his academic works dealing with his opinions concerning international relations. In his opinion, the contextual paradigm must not contradict any other proof and signification. However, it is possible at times that the requirements of a contextual paradigm be in contradiction with another proof or signification. Whereas the connected context that is present within the verses establishes the apparent meaning of the verses. For example, in order to prove the necessity of there being a condition of expediency to derive the ruling of enacting a peace treaty, he uses the contextual connection between the verses, "If they incline toward peace, then you [too] incline toward it, and put your trust in Allah. Indeed, He is the All-hearing, the All-knowing"⁴ (Qur'ān 8:61), and "So do not slacken and [do not] call for peace when you have the upper hand and Allah is with you, and He will not stint [the reward of] your works"⁵ (Qur'ān 47:35) (Zuḥaylī 1998, 671). It is clear that predicating a general (*'ām*) over a particular (*khāṣ*) is one of the clearest methods of utilizing the principle of contextual consistency and paradigm, as the analysis of the above example indicates.

4. «وَإِنْ جَنَحُوا لِلسَّلْمِ فَاجْنَحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ إِنَّهُ هُوَ السَّمِيعُ الْعَلِيمُ» (الانفال/ ٤١)

5. «فَلَا تَهِنُوا وَتَدْعُوا إِلَى السَّلْمِ وَأَنْتُمْ الْأَعْلَوْنَ وَاللَّهُ مَعَكُمْ وَلَنْ يَتَرَكُمُ أَعْمَالِكُمْ» (محمد/ ٣٥)



1.2. The Non-abrogated Nature of the Verses

According to the scholars of Qur'ānic Sciences, abrogation is established when a ruling and judgment of a latter-revealed verse negates that which appeared in a previously revealed verse, with the ruling on that matter now being the new, latter-revealed verse (Ma'rifat 1994, 2:274). Shaykh Zuḥaylī, who is known as one who believes in the primacy of peace, only sees as permissible war with hostile polytheists who oppose the invitation of Islam. In this way, the reason for the permissibility of war is not unbelief (*kufr*) but hostility and enmity (*muḥārabah*) (Zuḥaylī 1998, pp.106-133). Based on this principle and the permissibility of signing a peace agreement, he rejects the opinion that verse (Quran 8:81), which permits a peace treaty, was abrogated by verse (Quran 9:5).

2. Definition and Essence of a Peace Treaty

In Shaykh Zuḥaylī's opinion, agreements are also of two types, civil or specific contracts and non-civil or general contracts (Zuḥaylī 1998, 669). In his view, general contracts, which are known as treaties in international law, are a legitimate general Islamic principle that is necessary for the spreading of Islam and to structure international legal relations with other states and countries, especially polytheists (ibid, 355). In following the opinions of the jurists, he divides agreements into two types: 1. Permanent (*'aqd dhimmah*) and 2. temporary (*'aqd muḥādanah*) (ibid, pp. 356-357). So, according to him, Islamic states and countries must adhere to the agreements that are within UN Charter and impermissibility of them to interfere in the internal affairs of other countries, as this is in-line with the signification of verse 8:61, which reads, "If they incline toward peace, then you [too] incline toward it, and put your trust in Allah. Indeed He is the All-hearing, the All-knowing"⁶ (Quran 8:61) (Zuḥaylī 1996, 8:4069).

6. ﴿وَإِنْ جَنَحُوا لِلسَّلْمِ فَاجْنَحْ لَهَا وَتَوَكَّلْ عَلَى اللَّهِ إِنَّهُ هُوَ السَّمِيعُ الْعَلِيمُ﴾ (الأنفال/ ٦١)

Similarly, according to him, the verses that provide the legitimacy for the permissibility of *muhādanah* is based on the principle of the permissibility of peace (Zuḥaylī 1998, 671). Thus, the principle in international relations, as per the Glorious Qur’ān, are treaties. This principle shows the principle of peace from the Qur’ānic perspective. One of the legal consequences of this principle is the negation of the temporary nature of peace treaties and armistice agreements. This principle has also impacted his interpretation of (Quran 8:57) regarding the issue of reciprocal breaking of a contract. According to him, after the breach has become apparent within a peace treaty, the breaking of the agreement via the leader of the Islamic State is obligatory, and this is because the Islamic State has fallen into danger (Zuḥaylī 1998, 366).

A Comparison between the Views of Ayatullah Khamenei and Shaykh Zuḥaylī

Now, considering the differences in the theoretical foundations between these two jurists and exegetes that have been mentioned above, we can analyse what impact these foundations have had on their thought.

1. Primacy in International Relations Law

In the issue of what takes primacy in the international relations of Islamic countries with other countries, the difference between these two scholars in their theoretical foundations has impacted how they defined the international legal relations of Islamic countries with non-Islamic countries.

In the opinion of Ayatullah Khamenei, the primacy action with regards to the enemies of Islam, as per verses such as, “So do not slacken and [do not] call for peace when you have the upper hand and Allah is with you, and He will not stint [the reward of] your works”⁷ (Qur’ān 47:35), is the

7. ﴿فَلَا تَهِنُوا وَتَدْعُوا إِلَى السَّلَامِ وَأَنْتُمْ الْأَعْلَوْنَ وَاللَّهُ مَعَكُمْ وَلَنْ يَبْرِكُمْ أَعْمَالَكُمْ﴾ (محمد/ ٣٥)



general principle of war (Khamenei 1997, 23). Similarly, he opines that the acceptance and rejection of an offer for peaceful relations from the polytheists is, on the observance of certain conditions, at the discretion of the leader of the Islamic country. Hence, he sees this offer of creating peaceful ties as an exception (ibid, 24).

Contrastingly, Shaykh Zuḥaylī, by making reference to the indication that is present in verses such as,

﴿إِلَّا الَّذِينَ يَصِلُونَ إِلَىٰ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ أَوْ جَاءُوكُمْ حَصِرَتْ صُدُورُهُمْ أَن يُقَاتِلُوكُمْ أَوْ يَقَاتِلُوا قَوْمَهُمْ وَلَوْ شَاءَ اللَّهُ لَسَلَّطَهُمْ عَلَيْكُمْ فَلَقَاتَلُوكُمْ فَإِنِ اعْتَزَلُوكُمْ فَلَمْ يُقَاتِلُوكُمْ وَأَلْقَوْا إِلَيْكُمُ السَّلَمَ فَمَا جَعَلَ اللَّهُ لَكُمْ عَلَيْهِمْ سَبِيلًا﴾ (النساء/ ٩٠)

“excepting those who join a people between whom and you there is a treaty, or such as come to you with hearts reluctant to fight you, or to fight their own people. Had Allah wished, He would have imposed them upon you, and then they would have surely fought you. So if they keep out of your way and do not fight you, and offer you peace, then Allah does not allow you any course [of action] against them.” (Qur’ān 4:90)

is of the view that peace, in its essence, is an instant of expediency that is present when enacting a peace agreement with non-Muslims.

So, as was previously shown, with there being differences in the theoretical foundations of these two Islamic thinkers regarding international legal relations, the manner in which they perceive and define peace will also be different.

2. Duration of Peace Treaty

Neither of these two thinkers has expressed an opinion regarding an exact time frame for a peace treaty, and it seems that they hold quite similar opinions in this matter. Even with the difference in their theoretical foundations, they both opine that the central element in a peace treaty is expediency. As was previously mentioned, Shaykh Zuḥaylī's opinion on the primacy of peace allows for a lengthy peace treaty to be considered legitimate. However, according to Ayatullah Khamenei, this will not be the case, as his expedient central criteria will see such a peace treaty as being to the benefit of the enemy. In addition, by utilizing the semantical discussion of the principles of jurisprudence, i.e., pinpointing the essence and usage of propositions that are present within the verses, a more precise and accurate derivation is attained. Whereas, in the opinion of Shaykh Zuḥaylī, peace is essentially a benefit and a matter of expediency (Zuḥaylī 1998, 672). Subsequently, with reference to his foundational exegetical opinion that peace has primacy in international relations with non-Muslims, signing a lengthy treaty with them is permitted (ibid, 680).

From the above, it seems that the opinions of Ayatullah Khamenei in creating peaceful or hostile relations show more exegetical prowess. This may be because of the solid methodological foundations that he has applied and his expedient central thought; while his thought is also more coherent with the apparent meaning of Qur'ānic verses, such as (Quran 47:35).

3. Reaction to a Breach of Agreement by the Polytheists

As was previously observed, the view of Ayatullah Khamenei on how reciprocal breach should be done is greatly impacted on the foundation of the centrality of expediency. However, Shaykh Zuḥaylī, because of his foundation on the primacy of peace, views it as necessary for the Islamic country to announce the invalidity of the agreement.

The difference between these two views is that, in contrast to the view of Shaykh Zuḥaylī, Ayatullah Khamenei views the concept of breaking



and nullification of the peace treaty from the lenses of the centrality of expediency. The details of these differences were expounded on earlier.

Conclusion

As was previously stated, changes in Islamic international law are conditional on the expansion of the methods applied to analyze the rules related to war and peace. This characteristic is clearly visible within the opinions of these two scholars. Both of them, by benefitting from the verses that mention war and peace, derived the foundation that there must be expediency in order for a peace agreement to be signed. Furthermore, both of them, in their exegetical approach, have applied common methods, such as the contextual consistency and paradigm of the verses. Similarly, they both see expediency as a condition for enacting a *muhādanah* agreement.

Naturally, the difference in their view on what takes primacy in international relations and in their methodological foundations of derivation of law, has resulted in there being differences of opinions. The innovative methods used by Ayatullah Khamenei, including the division of expediency, logical application of truth and actuality propositions, have allowed for him to present his opinions in a structured manner.

This methodology has had a very crucial impact on various important issues within international legal relations, such as the duration of a peace treaty, reciprocal breach, and the essence of peace. The opinions and views of Ayatullah Khamenei are based on authoritative theoretical foundations that are coherent with the apparent meaning of the Qur'ānic verses.

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