

The Jerusalem Institute for Israel Studies

Established by the Charles H. Revson Foundation

**War, Peace and International
Relations in Contemporary Islam:
Muslim Scholars on Peace-Treaty with Israel**

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2008

The JIIS Studies Series no. 117

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This publication was made possible by funds granted by
The Gass Foundation and The Charles H. Revson Foundation.

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Abstract

This book analyzes the thinking of Muslim legal experts and *muftis* in the field of international relations as well as their efforts to adapt Islamic law (*Shari`a*) to the realities of modern statesmanship and relations among states and peoples. It assesses their stances regarding peace agreements with Israel as a special case. Religious pronouncements that present views denouncing or supporting peace with Israel appear in their original form, for the first time in Hebrew translation, and are accompanied by analyses of the justifications and grounds in religious law employed by the Muslim experts and decision-makers against the background of the political circumstances of the time. The research reveals that together with the radical stands opposing peace with Israel one finds religious leaders presenting pragmatic interpretations, supported by citations from the religious law, that envision the natural relations between the Muslim and non-Muslim world as a state of peace. That vision includes a permanent peace and diplomatic relations with Israel.

This position becomes clear in a discussion of Muslim legal opinions (*fatwa*) and books on Islamic law that shed light on the dividing lines of ideological and religious disagreement in modern-day Muslim society. The discussion of these religious sources related to Muslim relations with the non-Muslim world provide for a deeper understanding of a number of phenomena that characterize the Muslim world today: the development of Islamic law and its adaptation to changing political realities; the place of Muslim religious law in general and of the legal opinion (*fatwa*), regarding timely matters, in particular; the split between two major religious currents — one radical and one pragmatic and the mechanisms for interpretation that each uses; the struggle of the Muslim world with the tensions between tradition and modernity; the relationship between religious decisions and interpretations of religious law on the one hand and ideological challenges, national and military, on the other; the role of the *fatwa* as an instrument of propaganda or publicity in an age of mass media; the gap between religious leaders (*muftis*) associated with the authorities and those who are independent, or between those who identify with the regime and those with the opposition.

The most important document that represents the pragmatic approach is a *fatwa* of the mufti of Egypt — Jad al-Haqq `Ali Jad al-Haqq — who lent support to the peace agreement between Egypt and Israel in March 1979. The importance of the *fatwa* that he wrote is in the great authority he wielded both as an outstanding and learned man in the field of religious law (the head of the most prestigious institute for accreditation in the Islamic world — al-Azhar in Cairo) and as the religious leader of Egypt at that time. In addition, the *fatwa* of Jad al-Haqq is important in that it is a long document of great breadth, based on the Qur'an and the Sunna (the Prophet's tradition), that cannot easily be dismissed. Furthermore, in the context of the controversy between authorities that are not extremist and radical Islam the document poses a challenge to the latter.

The book opens with a presentation of the classic doctrine of the *Shari`a* regarding war and peace as a background for the *fatwas* that are analyzed in the chapters that follow. The second chapter describes the practices of signing agreements over the course of Muslim history and the efforts made by Islamic thinkers to form a bridge between international relations in modern times and the classic Islamic theories about relations with non-Muslim groups and peoples. The third chapter is dedicated to a discussion of the *Hudaybiyya* agreement — an agreement of non-combat between the prophet Mohammed and his enemies, the tribe of *Quraysh*, in Mecca in the year 628: the agreement lasted ten years and became, in effect, a model for agreements between Muslims and non-Muslim groups. While this serves as a precedent upon which Muslim experts in Islamic law base their rulings, disagreement remains among Muslim commentators about its significance. Moreover, there is no agreement regarding the conclusions one can draw from this historic event — or how to project them onto relations with Israel. Since some important *muftis* supported the signing of the peace agreement with Israel did so in part on the basis of this precedent, a debate arose among Israeli (and Western) experts in Islam and the Middle East as to whether those pointing to this event meant to refer to it as true peace, or whether it was intended as a ruse — i.e., an agreement which it is legitimate to break from the outset, at a time convenient for the Muslims. In this chapter different stands regarding this issue are analyzed, the conclusion of which is that the political context should serve as a basis for determining which of the two approaches is relevant.

Chapters 4-9 are devoted to *fatwas* on the subject of peace with Israel, according to chronological order. The first, chapter 4, was issued in 1956 when the Straits of Tiran were blocked (by Egypt) to Israeli ships; chapter 5 addresses the collective *fatwa* of the al-Azhar experts in response to the first peace initiative of the U.S. Secretary of State William Rogers, at the end of 1969. Chapter 6 deals with the *fatwa* of the Chief *mufti* of Egypt — Jad al-Haqq, mentioned previously — which is analyzed and completely translated, for the first time, into Hebrew and set into its historical background; chapter 7 deals with the debate between two of the most important authorities on the shari`a (the Mufti of Saudi Arabia `Abd al-`Aziz ibn Baz and the popular Islamist scholar Dr. Yusuf al-Qaradawi (who resides in Qatar) over the Oslo agreements signed between Israel and the P.L.O. Chapter 8 is on the possibility of the *Hamas* agreeing to a truce (*hudna*) with Israel and includes a draft of a proposal for a *hudna* that was discussed by people close to Ismail Haniya and representatives of the European community; although in this case the subject is not a formal legal opinion, it is possible to get an idea of what Hamas's stand may be if and when a similar proposal is brought up in the future — which makes it important. Chapter 9 addresses a position paper, written like a *fatwa* by one of the most important religious leaders in Saudi Arabia, that relates to Israel's second war in Lebanon (2006) and the position of the Hezbollah against Israel. In chapter 10 — which concludes the book — the agreements that were signed between the Algerian leader `Abd al-Qadir (who was also an important religious figure) and the French in the 1830s are presented. These agreements granted *shari`a* legitimacy to French control over the shores of Algeria, despite the fact that they constituted land that had been conquered by Muslims and were being relinquished to non-Muslims, the French.

Discussion throughout the book gives expression to the pluralism built in to Islamic law, and indicates that Islam did not cease to develop either in the Middle Ages or in modern times. One can view the discourse that is now common in the Islamic world, and the stance of religious leaders today, in terms of a dichotomy between radicals and pragmatists. The radical stream preserves the classical doctrine of an all-out *jihad*, entailing violent action to enforce religious control and aspiring to “change the rules of the game” and replace rulers deemed to be pragmatic. On the other side is the pragmatic stream, which glorifies the nation-

state and holds it above the all-Muslim nation: adherents to this view see the ruler of a Muslim state as the only one with the authority to weigh the given military or national circumstances, to choose between war and peace, and to oblige his country to accept his decision. He does so without depending on the opinions of other Muslim states.

The central justification for signing a peace agreement with Israel in terms of the pragmatic current is that the strategic superiority of Israel and the concomitant military inferiority of its Arab rivals make such an agreement now a *force majeure*. If it is not possible to defeat Israel it is only reasonable, based on this evaluation, to seek benefits for all the Muslims through the pursuit of peace — namely, the return of territory (Islamic land and its inhabitants) that has been conquered. In other word, territories for peace: withdrawal from all the territory that Israel conquered in 1967, which has been consistently been a demand in all the proposals for a *hudna*.

Other justifications that state muftis have provided for supporting a peace agreement with Israel are: 1) the age of *jihad*, in the classic form of a war against heretics, is over; 2) since the Muslims are incapable of defeating Israel, the greatest possible benefits to Muslims will come from peace that will include the return of territory and its residents to Muslim sovereignty. There is no longer any sense to the principle of “all or nothing”; 3) it is a necessity of the times; 4) there are precedents — the Prophet Mohammed signed agreements with his enemies, as in the “*Hudaibiyya* agreement”; 5) an agreement with Israel may in the future bring about the return of the Arab parts of Jerusalem to Islamic control.

Islamic law is still an important cultural code that is accepted in most Arab and Muslim societies. As such, leaders must know this law in order to deal with radical elements — they must “speak their language”. In light of the attacks by radical Islamist circles, *fatwas* are very significant in providing support to the actions of the rulers. A *fatwa* that offers backing to the position of the leadership and legitimizes its policies is of great importance in terms of explaining and garnering public support; it is meant to soften and limit public objections to signing a peace treaty with Israel and to facilitate the establishment of normal relations after the signing. It seems that the legal opinions cited in this book may well be used in the future as textual anchors in public discourse about peace between Palestinians and Arab countries and Israel. On the basis of past experience, if and when a

peace agreement would be signed between Palestinians and other Arab nations (in addition to Egypt and Jordan) and Israel, it is likely that these agreements will be backed by *fatwas* that will lend legitimacy to the political decisions. The *fatwa* of Jad al-Haqq and other *muftis* whose pronouncements are herein discussed will serve as a basis for Islamic legal authorization.