
Islamic International Law and the Right of Self-Defense of States

Abdul Ghafur Hamid @ Khin Maung Sein *

Islamic international law is a branch of the Shari'ah (Islamic law). Due to the classical doctrine of the notion of 'jihad,' there have been misconceptions and Islam has been painted as a religion encouraging violence and war. This paper appeals for the reconsideration of the classical doctrine, which was adopted at a time when there was a state of war between Islamic and non-Islamic states. Going back to the roots and referring to the Qur'an and the Sunnah: the two primary sources of Islamic law, the paper argues that Islam prohibits aggressive war and that the essence of 'jihad' is 'self-defense.' After elaborating the essential conditions of the right of self-defense, the paper concludes that Islamic international law can contribute much to the present world order by providing moral and ethical values that modern international law is lacking.

Keywords

Shari'ah, Self-defense, Jihad, Islamic International Law

I. Introduction

'*Shari'ah*' is an Arabic word meaning the path to be followed. It is the path not only leading to *Allah*,¹ God Almighty, but believed by all Muslims to be the path shown by *Allah*, the Creator Himself. The *Shari'ah*, or Islamic law, is based on unqualified

* LL.B. (Yangon), LL.M. in International Law (Yangon), Ph.D. (IIUM), Professor of Law and Coordinator of the International Law and Maritime Affairs (ILMA) Research Unit of the International Islamic University Malaysia. The author may be contacted at: ghafur@iium.edu.my/Address: International Islamic University Malaysia P.O. Box 10, Kuala Lumpur 50728 Malaysia

¹ '*Allah*' is the unique name used by Muslims of the God Almighty, the Lord of the Worlds, and the Creator of every living and nonliving thing in the entire universe. The term '*Allah*' will be used throughout the article to refer to God Almighty.