

Treaties of the Prophet Muhammad (Peace Be Upon Him): A Study of the Modern Approaches in *Sīrah* Writing

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Abstract

The *Sīrah* of the Prophet *Muḥammad (Peace Be Upon Him)* provides such rules and regulations which are helpful in addressing the needs of individuals and society of all times and ages. Although the world has been changing ever since its creation, yet the pace of change in the last one hundred years or so has been the most rapid ever. The effects of these changes were beyond the limitations of time and region and therefore they directly affected the Muslim world as well. Muslim scholars did not ignore these changes but realized their responsibilities and wrote such books of *Sīrah* which provided guidance in connection with these rapid changes and conditions.

The treaties of the Prophet are one of the most significant aspects of the *Sīrah*. This research has highlighted the treaties of Prophet *Muhammad (Peace Be Upon Him)* in the light of the opinions of the authors of selected books of *Sīrah* written in twentieth century. The study has primarily focused on significance *Sīrah* books of three languages i.e. Arabic, English and Urdu, written in twentieth century. These books include *Fiqh Al Sīrah* by *Muḥammad Sa'īd Ramaḍān Al Būṭī*, *Fiqh Al Sīrah* by *Muḥammad Al Ghazālī*, *Khātim Al Nabīyīn* by *Muḥammad Abū Zahrah*, *The Life and the Work of the Prophet* by Dr. *Muḥammad Ḥamīdullāh*, *The Spirit of Islam* by *Sayīd Amīr 'Alī*, *Sīrah Al Nabī* by *'Allāmah Shiblī Nu'mānī*, *Aṣ aḥ Al Sīrah* by *'Abdul Raūf Dānāpūrī*, *Ḍīā Al Nabī* by *Pīr Muḥammad Karam Shā hand Makkī 'Usswa'i Nabvī*, *Muslim Aqliyatūn kay Masā'il ka Ḥal* by Dr. *Yāsīn Maẓhar Siddiqī*.

Key Words: Treaties of the Prophet Muhammad, *Sīrah* Writing

Preface

Islam is a global religion and it is the final message sent by the Allah Almighty for the guidance of all human beings. The status of Prophet *Muḥammad (Peace Be Upon Him)* who

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was sent to propagate this message for all people is also eternal and universal. Allah Almighty refers to this vital point in the Holy *Qurān* by saying

قُلْ يَا أَيُّهَا النَّاسُ إِنِّي رَسُولُ اللَّهِ إِلَيْكُمْ جَمِيعاً الَّذِي لَهُ مُلْكُ السَّمَاوَاتِ وَالْأَرْضِ¹

Say (O *Muḥammad*): “O mankind! Verily, I am sent to you all as the Messenger of Allah - to whom belongs the dominion of the heavens and the earth”.

And again;

وَمَا أَرْسَلْنَاكَ إِلَّا كَافَّةً لِّلنَّاسِ بَشِيرًا وَنَذِيرًا²

And We have not sent you (O *Muḥammad*) except as a giver of glad tidings and a warner to all mankind.

Prophet *Muḥammad* (*Peace Be Upon Him*) not only conveyed this message of Allah to all the people but made it easy to act upon it by practicing it himself. Whenever and wherever the world was confronted with new challenges, the *Sīrah* of Prophet *Muḥammad* (*Peace Be Upon Him*) provided guidance to face these challenges.

Modern day world faces many new challenges and these challenges have shrunk the world and brought people with various religions and backgrounds closer to each other. The world has become a global village and everyone is affected by the challenges, no matter which part of the world you live in. One of these challenges is the relationship between Muslims and Non-Muslims. Muslims and Non-Muslims never lived in harmony in the past as they are living in today's modern world. The human societies have become more multi-faceted and that has its effects not only on national but at international levels as well, for instance the issue of the war prisoners who are arrested from one country and are kept in prison in another.

There is no doubt that there are international laws for such issues but as a matter of fact they do not possess the power of implementation. There was a need to re-examine such international laws in the light of *Sīrah* which were discussed by the *Sīrah* writers of twentieth century. An effort has been made in this research to analyze the thoughts of various *Sīrah* writers. Though the *Sīrah* writers of the early days of Islam did discuss Muslim international law in their writings, today's world and the world of those days are different by many means.

In the early days of Islam Muslims ruled the world and now they are ruled by others as well. Islam was in sovereignty

in those days and now it is in the state of subjugation and suppression. In those early days of Islam, Muslim world was unified and now it is divided into various parts. Considering these facts, modern approaches of *Sīrah* writing have encompassed and addressed all those issues which needed to be drawn attention to.

The Treaties

The term treaty means the written agreement by which two or more parties, states or international organizations create or intend to create a relation between himself or herself operating within the sphere on international law.³ The above definition contains four important elements. Firstly, treaties should be in writing. Although classical international law did not prescribe that treaties should always be in writing, it is rare to find an oral agreement between the states. Secondly, parties to a treaty may be either states, or a state and international organization, or international organizations. Thirdly, the purpose of a treaty is to create a relationship between the parties. The relationship may be legal relations or political or moral relations. It implies that treaties or provisions of treaties may impose no binding obligations, or be intended not to create legal relations between parties.⁴ For instance, certain treaties of friendship between states do not create any legal relationship between the contracting parties. Fourthly, a treaty should operate within the sphere of international law. It is submitted that international law is not the only legal system within which states can contract. Some contracts may be governed by general principles of law including private international law. Such contracts may be helpful in resolving difficulties but they do not come within the scope of the term treaty in which it is used in international law.⁵

Various Names of Treaties

The term treaty includes many different names, which may be attributed to it by the parties. A treaty may be called treaty, but at the same time, a variety of other names may be attributed to the term such as convention, agreement, protocol, declaration, arrangements, accord, additional articles, aide memory, code, communiqué, compact, contract, instrument and

optional clause. The above may indicate a difference in procedure or degree of formality, but in generic sense, all of them are described as treaties. Terminology is not a determined factor as to the character of an international agreement or undertaking. In the practice of states and of international organization and in the jurisprudence of international courts, there exists a great variety of usage; there are many different types of acts to which the character of treaty stipulation has been attached. Apart from the more obvious types of such acts even an unsigned and uninitiated documents such as a press communiqué may constitute an international agreement.⁶

Kinds of Treaties

Treaties may be classified into three categories on the basis of the parties becoming members to treaties. They are as follows;

Bilateral Treaties

Bilateral treaties are described as those treaties in which participation and rights and obligations arising from the treaty is limited to two parties. They are sometimes also called bipartite treaties; although the word is not apt. many bilateral treaties bear the closest analogy to the private law contract and therefore they are sometimes referred to as treaty contract.

Plurilateral Treaties

Those treaties where the participation is open to a restricted number of states are describes as plurilateral treaties. The minimum number of parties in such treaties should be more than two. Although the maximum number may differ from one to another, it should not be open to all or most of the members of the international community as in the case of multilateral treaties. The purpose of the conclusion of plurilateral treaties varies from treaty to treaty. For example, it may be either to maintain peace and security within a specific region or to promote and develop the commerce amongst the participating members or to create similar other rights and obligations, the burdens and benefits of which are created in favor of only a group of states.⁷

Multilateral Treaties

Multilateral treaties are those which are open to participation for all the states without restriction or to a considerable number of parties. They lay down general norms or international law or to deal in a general manner with matters of general concern to other states as well as to the parties to the treaties. Multilateral treaties are said to perform the functions of international legislation. It is to be noted that they might have semblance of international legislation, yet it would be improper to describe them so because the expression international legislation is more a metaphor than a reality.⁸

Nature of a Treaty of Peace

Sometimes a treaty of peace provides for future friendship and even alliance and co-operation on conditions agreed upon in treaty. More often it simply provides for cessation of hostilities and correct neighborly relations. Weaker parties often consent to make reparations and pay tribute. In the un-ratified provisional treaty with the *Ghaṭ afān*, the Prophet had agreed to hand over to them a third of the produce of the oases of *Madī nah* provided they deserted their allies besieging *Madī nah* and made a separate and immediate peace with the Muslim state.⁹ Muslim jurists are of the opinion that treaties of friendship should not be concluded with non-Muslims for perpetuity. Generally the jurists agree that ten years should be the maximum period, in view of the treaty of *Hudybīyah*.¹⁰

Effects of a Treaty of Peace

The principle effects are the following:

1. The subject over which hostilities have broken out is settled.
2. The rights of belligerency, i.e. killing, capturing, plundering, occupying, and other things described before, are brought to an end.
3. Unless otherwise provided in the treaty the status quo¹¹ before the conclusion of the treaty will be maintained.
4. Prisoners of war are exchanged or otherwise released, for which there are generally express stipulations. Other booty is not exchanged unless expressly provided for.

5. As soon as a peace is concluded, the treaties, suspended during the war, and which requires no renewal, automatically review; and treaties dealing with behavior during the war are suspended.

Elements of a Treaty of Peace

Basing his argument on the Quranic command:

إِذَا تَدَايَنْتُمْ بِدِينٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ¹²

When you contract a debt for a fix term, record it in writing.

On the practice of Prophet *Muḥammad (Peace Be Upon Him) Shybanī* and others say that a treaty must be in writing. The date of the writing of the treaty and the date on which it comes into force, as well as the duration of the treaty must be precisely mentioned.¹³ Apart from general matters, such as the cessation of fighting, the settlement conditions created by war, etc., and special things such as agreement regarding the matters because of which the hostilities broke out and miscellaneous things which have a connection either with general or special things - apart from all these things - the treaties include solemn promises for the observance and execution of the treaty, signature of the duly authorized persons, and the sanction for execution, such as hostages, etc. and along with the main treaty, sometimes annexes, supplements, provisos and even secret sections are also to be found.

Ratification of Treaties

Generally the treaties are negotiated and provisionally settled by representatives of states. For matter *ultra vires*,¹⁴ they referred even in the time of *Shybanī* to the central government. History records a letter of *Khālīd Bin Walī d* in which he asked from Yemen for instructions from Prophet. If the supreme chief is not available at hand, the provisional agreement is later ratified by competent authorities. It is possible that ratification may be denied and the whole treaty becomes null and void. There is an instance of this in the time of the Prophet, when the Prophet himself had concluded a pact with the proviso that it would be ratified after consulting the pillars of the state. As a matter of fact, they rejected the terms, and the parchment was consequently effaced.¹⁵

Interpretation of Treaties

Classic Muslim writers on international law and ‘Root of Law’ (اصول الفقه) have given long details of the principles of the interpretation of the terms of treaties. There are things which have been taken granted by the Muslims even without express mention of them, but other nations may not apply that. Such things must be expressly mentioned; otherwise the contracting party may conclude that there is an infringement of the pact. And we have mentioned, the document must be written in a way to bear witness against the contracting parties, and no accusation of perfidy should be possible. If a besieged fortress surrenders on the condition that the free people will not be molested and that the ownership of the slaves will be transferred to the conquering army, and the parties differ regarding the status of certain individuals, the presumption will be that they are free people, since originally man is free.¹⁶

Amendment in Treaties

Treaties may be amended in part at any time by mutual consent of the parties concerned, instead of concluding a new pact.

Denunciation of Treaties

It is possible that changes of time render certain conditions of a treaty impracticable, and in view of the changed circumstances they should be revised. Muslim jurists say that if the Muslim ruler denounced a former treaty, he cannot do so unless he informs the other party, and he cannot act in any way contrary to the treaty until reasonable time has passed, in which it is expected that the information has reached the central government of the other party.¹⁷

Treaties of the Prophet Muḥammad (Peace Be Upon Him)

The very first thing Prophet Muḥammad (Peace Be Upon Him) did after laying the foundations of Islamic state was to form relations with Arab tribes and he signed various treaties with several tribes of Arabia. These treaties proved very fruitful

Tahdhīb al Afkār Treaties of the Prophet Muhammad Jul-Dec, 2014
in terms of establishing peace, running the affairs of the state and in the propagation of Islam. The treaties of the Prophet can be classified into four categories; firstly *Ba'yt 'Aqbah Al Thālitha*, *'Aaqd Mua'akhāt* and the treaty of *Madīnah*. Secondly the treaties of alliance and ceasefire with the tribes who lived in the west of *Madīnah* on the trade route, for instance *Banū Mudlaj*, *Banū Ghaffār*, *Banū Aslam*, *Banū Juhynah* etc. Thirdly and the most importantly is the treaty of *Hudybīyah*. And lastly the letters and the treaties of the Prophet to various kings such as the Emperors of Rome, Persia, Abyssinia, Egypt etc. The following lines give a brief description of a few of the important treaties of the Prophet.

Treaty of Madīnah

After migrating to *Madīnah* a treaty was prepared by Prophet *Muḥammad(Peace Be Upon Him)* and signed by all the tribes of *Madīnah*. This treaty was the very first written constitution of the world. This treaty was based on social and community needs which provided Prophet *Muḥammad(Peace Be Upon Him)* with a commanding role in case of any difference and arbitration. It was based on equality of human rights, freedom of religion, social responsibility and collective defense system for *Madīnah*. The free choice of tribal association with anyone was acknowledged. A mere significant factor in the termination of this early arrangement in *Madīnah* may have been the formal agreement established between Prophet *Muḥammad(Peace Be Upon Him)* and all the significant tribes and families. Fortunately, *Ibn Isḥāq* preserved a version of these valuable documents called the constitution of *Madīnah*. It reveals great diplomatic skill of Prophet *Muḥammad(Peace Be Upon Him)*, for it allows the ideal that he cherished of a community based clearly on a religious outlook to sink temporarily into background and is shaped essentially by practical consideration. It is true that the highest authority with Allah and Prophet *Muḥammad(Peace Be Upon Him)* before whom all matters of importance were to be laid, but *'Ummah* as portrayed in the constitution of *Madīnah* included also Jews and polytheists.¹⁸

Treaty of Hudybīyah

The second important treaty signed by the Prophet was the treaty of *Hudybīyah* with the *Qurysh* of *Makkah*. The Prophet's attitude with non-Muslims during the process of dialogue was a role model especially for the current international situations of Muslims. Few of the very important clauses of the treaty are:

- (a) Muslims will go back this year without performing Umrah.
- (b) They will come next year only for three days to perform Umrah and they can carry arms but in covers.
- (c) Muslims living in *Makkah* will not be allowed to go to *Madīnah*.
- (d) If any Muslims wants to stay in *Makkah* will not be forced to return to *Madīnah*.
- (e) If anyone goes to *Madīnah* from *Makkah* will be returned
- (f) Arab tribes are free to support any one among Muslims or non-Muslims.
- (g) Muslims and *Qurysh* will abandon war for next ten years.

Apart from these clauses the *Qurysh* made some technical objections on the document like:

- (a) To change the word *بِسْمِ اللَّهِ* to regular Arab phrase.
- (b) To change the word *Muḥammad* the Messenger of Allah to *Muḥammad* son of '*Abdullah*'.

Prophet *Muḥammad* (*Peace Be Upon Him*) accepted their proposal and changed the wordings according to their demand which shows the statesmanship and tolerance of Prophet *Muḥammad* (*Peace Be Upon Him*) towards non-Muslims and his love for peace. General Muslim participants were not happy on the terms which apparently looked unfavorable, except few who had high vision. The *Qur'ān* talks about this treaty in the following words;

إِنَّا فَتَحْنَا لَكَ فَتْحًا مُّبِينًا¹⁹

Verily, We have given you a manifest victory.

This glad tidings mentioned in the Holy *Qur'ān* proved correct and the impact of the treaty of *Hudybīyah* was far greater than previous dialogue with non-Muslims. Following achievements were recognized:

- (a) Open contact with non-Muslims and opportunity to call them towards the religion of Allah and dialogue.
- (b) Muslims declared their faith publically.
- (c) Islamic practices were started.
- (d) Discussions on religions and interfaith dialogue started.
- (e) *Qur'ān* was recited and mentioned publically and affected its listeners to greater extent.
- (f) High rate of conversion of non-Muslims to Islam in *Makkah* during this period as compared to past.²⁰

Treaty of Najrān

Another important treaty is the treaty of *Najrān* which was signed with the Christians living in the province of *Najrān*. The Muslims living in *Madīnah* openly welcomed the delegation of *Najrān*. They were given full opportunity to express their concerns and ideology and were provided with all the information in Islam related with Christian religion. They were allowed to pray in their own manner in the mosque of the Prophet. When they agreed to common grounds, an agreement was signed with them with the following main features:

- (a) Life protection for all the Christians in *Najrān*.
- (b) Their property and assets will be in their own control.
- (c) Their religious institutions will remain in their own control.
- (d) Protection of their churches was assured to them.
- (e) Their own belonging will be protected.
- (f) They will be exempted from military services for the protection of state.
- (g) They will pay land taxes.
- (h) Army will not be deployed in their land.
- (i) During any arbitration they will have full equal right of justice and fair trial.
- (j) There will be no aggression towards them.
- (k) Prohibition of interest.
- (l) No one among them will be punished for the crime of others.
- (m) They will not be charged with unjustified financial burden.²¹

Prophetic Treaties; A Study of Modern Approaches in Sīrah Writing:

It is now more than fourteen hundred years that *Sīrah* of Prophet *Muḥammad* (*Peace Be Upon Him*) is being written. Various ages and varying political conditions had its effects of the various styles and trends of *Sīrah* writings. And the life of the Prophet was discussed in the perspective of the upcoming challenges. One of the most important of these trends and approaches in *Sīrah* writing is the modern approach or contemporary trend. Various innovative issues were discussed in modern trends of *Sīrah* writings such as administrative aspects of *Sīrah*, military aspects, works of orientalists, manuscripts and many more.

After the inception of *Sīrah* writing it went through various phases. The evaluation phase of *Sīrah* writings had to go through a very critical age in nineteenth and twentieth century when Muslim world had a political decline and their governments were coming to an end. The Muslims went through a phase where western sciences, arts, cultures and civilizations influenced them to great extent. This is when orientalists also wrote about the life of Prophet *Muḥammad* (*Peace Be Upon Him*). They came up with such objections and questions which were needed to be answered and this created new trends and styles in *Sīrah* writings.

In signing these treaties with non-Muslims the ultimate goal of Islam was peace and tranquility. Islam granted them freedom of religion and there was no discrimination between the Emigrant and the Helpers and nor between the Muslims and the Jews. They were free in perusing their personal laws. This is what in agreement said by almost all the authors of the selected books about the treaties with non-Muslims. The authors are of the opinion that Muslims had many other treaties with non-Muslims and individual treaties were also signed in *Makkah*. The timeframe for a treaty has also been discussed. In order to conduct a study on the treaties of Prophet (*Peace Be Upon Him*) a few of the *Sīrah* books of recent past have been selected. The study has primarily focused on these books *Fiqh Al Sīrah* by *Muḥammad Sa'īd Ramaḍān Al Būtī*, *Fiqh Al Sīrah* by *Muḥammad Al Ghazālī*, *Khātim Al Nabīyīn* by *Muḥammad Abū Zahrah*, *The Life and the Work of the Prophet* by Dr. *Muḥammad Ḥamīdullāh*, *The Spirit of Islam* by *Sayīd Amīr*

Tahdhīb al Afkār Treaties of the Prophet Muhammad Jul-Dec, 2014
‘Alī, Sīrah Al Nabī by ‘Allāmah Shiblī Nu‘mānī, *Aṣ aḥ Al Sī yar* by ‘Abdul Raūf Dānāpūrī, *Ḍiā Al Nabī* by Pīr Muḥammad Karam Shāh and *Makkī ‘Usswa’i Nabvī, Muslim Aqlīyatūn kay Masā’il ka Ḥal* by Dr. Yāsīn Maz har Siddiqī.

Fiqh Al Sīrah, by Muḥammad Al Ghazālī

Muḥammad Al Ghazālī (1917–1996) was an Islamic scholar. The author of more than sixty books, *Muḥammad Al Ghazālī* attracted a broad following with works that sought to interpret Islam and the Holy *Qur’ān*, in a modern light.

Al Ghazālī while making a mention of the treaties highlights the aims and the goals of signing treaties in Islam. According to him Islam advocates peace in all form and this is what Prophet *Muḥammad* (*Peace Be Upon Him*) aimed while he signed various treaties during his life time. These treaties were based on sincerity and cooperation with its opponents. They were to put an end to the aggression and to help the weak.

Peace and tranquility were the ultimate goal of Islam and the best examples of these goals of Islam were the treaties of Prophet *Muḥammad* (*Peace Be Upon Him*). *Al Ghazālī* highlights the significance of peace and tranquility while mentioning the treaty of *Ḥudybīyah*, ‘This document expresses the desire of the Muslims for sincere co-operation with the Jews of *Madīnah* in order to establish peace and tranquility throughout the city and put a stop to any transgressor and trouble maker, whatever their religion might be. It clearly stated that the freedom of religion was guaranteed. Thus there was not the least thought of attacking any group or oppressing any weak person. On the contrary, the words of this document clearly emphasized assistance to those who were oppressed, protection to the one who sought refuge, and safeguarding all the general and specific rights. It sought the support of Allah for the best and most pious, just as it sought the wrath of Allah on any one who was treacherous and deceitful’.²²

Fiqh Al Sīrah, by Muḥammad Sa’īd Ramaḍān Al Būṭī

Muḥammad Sa’īd Ramaḍān Al Būṭī was born in 1929 AD and died on 21st March 2013 AD. He was a notable Muslim

Tahdhīb al Afkār Treaties of the Prophet Muhammad Jul-Dec, 2014
scholar. He was killed on 21st March 2013, during the Syrian civil war, reportedly in a bomb explosion.

Ramaḍān Al Būtī has mentioned few vital aspects while discussing the all important issue of treaties in Islam. According to him there must be a certain timeframe for all the treaties signed by Muslims and this time period should not exceed ten years. He has quoted the examples of the treaties of Prophet *Muḥammad(Peace Be Upon Him)* and has inferred various issues from various clauses of these treaties.

Ramaḍān Al Būtī is of the opinion that the timeframe must be allocated for all the treaties of peace signed with non-Muslims. According to him this is the viewpoint of the majority of the pioneers of various schools of thought. *Ramaḍān Al Būtī* further says that this time limit should not exceed a period of ten years because Prophet *Muḥammad(Peace Be Upon Him)* signed the treaty of peace with *Quraysh* for ten years.²³

Al Būtī has discussed the treaty of *Madīnah* in detail and has inferred various injunctions in connection with Islamic society. After inscribing the clauses of the treaty *Al Būtī* says that Islamic society from very first day is based on constitutional foundations. Secondly Prophet *Muḥammad(Peace Be Upon Him)* dealt with the Jews very justly and the Jews were the first to violate the clauses of the treaty and Prophet *Muḥammad's(Peace Be Upon Him)* dealing with them were absolutely justified. *Al Būtī* then says that the unity of the Muslim 'Ummah is only possible through the teachings of Islam. *Al Būtī* then discusses the mutual security and responsibility existing in an Islamic society. All the Muslims share the responsibility of the doings of other Muslims and the common rules of Islamic law are based on this very responsibility. *Al Būtī* then in the light of this treat between Muslims and non Muslims describes the position of equality in Islam. Lastly *Al Būtī* infers that it is not allowed for the Muslims to follow any other law in their disputes, disagreements and other matters and they are bound to abide by the Islamic law.²⁴

Khātim Al Nabīyīn, by Muḥammad Abū Zahrah

Muḥammad Abū Zahrah (1898–1974 AD) was

Tahdhīb al Afkār Treaties of the Prophet Muhammad Jul-Dec, 2014
an Egyptian public intellectual, scholar of Islamic law, and author. He also served as a member of *Al AẒhar's* Academy of Islamic Research. ‘The book *Khātim Al Nabīyīn* of *Muḥammad Abū Zahrah* is one of the best Arab books which is very authentic in term of *Sīrah* and its juristical studies’.²⁵

Abū Zahrah highlights the essence and the purpose of the treaties in Islam and he gives the examples from the life of Prophet *Muḥammad(Peace Be Upon Him)* in the favor of his argument. He is of the opinion as a result of the treaty between Muslims and non-Muslims in *Madīnah* the first state of Islam was established which carried no discrimination between its people. The non-Muslims were given full freedom in terms of their religious matters and there was no compulsion on them. The duties and the responsibilities of everyone were stated clearly.

Abū Zahrah writes that the agreement through which Prophet *Muḥammad(Peace Be Upon Him)* organized the new society for the inhabitants of *Madīnah* contained no discrimination between the Emigrant and the Helpers and nor between the Muslims and the Jews. Jews were declared free in terms of their religion and personal laws. They had the option to follow their own personal laws or to refer it to Prophet *Muḥammad(Peace Be Upon Him)*. Everyone was bound to help the weak and the prisoners.²⁶

Dr. Muḥammad Ḥamīdullāh

Dr. *Muḥammad Ḥamīdullāh*(February 9, 1908 – December 17, 2002 AD) was a famous scholar of Islamic law and an academic author with over one hundred books. A difference of opinion was seen when Dr. *Muḥammad Ḥamīdullāh* said that the clauses of the constitution of *Madīnah* take away a good part of the Jews’ political as well as economic independence. Further the Jewish tribes are nowhere in the text named as independent entities. Quite in the contrary, names of the ten Islamized Arab tribes are mentioned in connection with the declaration of the rights of Jews, as allies of such and such Arab tribes and that is to say that Jews had not accede as equal to the federal-city state, but had done, so, so to say, as the clients of their Arab Muslim patrons’.²⁷

He further writes, ‘This situation may be explained by the fact that the convection with the Jews had no independent existence, but was only an extension of the original constitution, and hence one required only to add supplementary article relating to the rights and duties of the new unit in the Muslim city-state²⁸.

Dr. *Muḥammad Ḥamīdullāh* says that treaty of *Madīnah* did not give freedom to Jews to follow their own religion rather it was stated in the Holy *Qur’ān*. He says, ‘There is a point about which the constitution does not say anything but the *Qur’ān* specifies that the various communities: Jewish, Christian, etc., should apply their own religious law in every aspect of their lives²⁹.

While discussing treaty of *Ḥudaybiyah* Dr. *Muḥammad Ḥamīdullāh* highlights the love of Prophet *Muḥammad (Peace Be Upon Him)* for peace and stability. Dr. *Muḥammad Ḥamīdullāh* writes that signing the treaty of peace was not a difficult task as Prophet *Muḥammad (Peace Be Upon Him)* had already decided to accept all the conditions of *Quraysh* for their satisfaction and in return Prophet *Muḥammad (Peace Be Upon Him)* wanted to achieve two goals; the establishment of peace and surety from *Quraysh* that they will remain neutral in case of Muslims’ was with a third party. He further writes that the results of this treaty were beyond imaginations as broken links were restored between Muslims and *Quraysh* and a lot of people embraced Islam³⁰.

Apart from his major treaties Prophet *Muḥammad (Peace Be Upon Him)* had many other treaties with non-Muslims. Dr. *Muḥammad Ḥamīdullāh* writes that after being satisfied from internal threats Prophet *Muḥammad (Peace Be Upon Him)* established his relations with those tribes who were living outside *Madīnah* specially those who lived near the trade routes of the caravan of *Makkas* coming from or going to Iraq, Syria and Egypt. Prophet *Muḥammad (Peace Be Upon Him)* succeeded in signing treaties with these tribes on the basis of military assistance and now Muslim troops can patrol in their territories³¹.

Regarding flexibility and leniency in legislation Dr. *Muḥammad Ḥamīdullāh* writes that extracting results in public

interest from identical issues, conditions and events is a mean which promoted Islamic law after Prophet *Muḥammad*(*Peace Be Upon Him*) and it lasted with time because law is for humans and humans are not for law³².

Dr. *Muḥammad Ḥamīdullāh* says that after the death of *Ka'b Ibn Ashraf* the Jews wanted to have an agreement of mutual aid. He writes, 'Their great lord dead, the Jews got frightened and came soon to conclude with their Muslims neighbors a defensive alliance and an agreement for a possible mutual aid³³.

Regarding the outcomes of the treaty of *Hudaybiyah* Dr. *Ḥamīdullāh* writes, 'Far from being a set-back, this truce which isolated *Khybar* from its powerful friends was, on the contrary, a true masterpiece of diplomacy a "manifest victory", and "brilliant success"³⁴.

The Spirit of Islam by Sayīd Amīr 'Alī

Sayīd Amīr 'Alī (1849 AD–1928 AD) was an Indian Muslim jurist hailed from the state of Oudh from where his father shifted and settled down at Orissa. He was a prominent political leader, and author of a number of influential books on Muslim history and the modern development of Islam, who is credited for his contributions to the Law of India, particularly Muslim Personal Law, as well as the development of political philosophy for Muslims, during the British rule. He was a signatory to the 1906 AD *Qur'ān* Petition and founding-member of the All India Muslim League.

In his comments about the treaties of Islam *Sayīd Amīr 'Alī* has especially mentioned the freedom which was granted to the monks of the church of St. Catherin near, mount *Thinā'ī*, In connection with this charter which Prophet *Muḥammad*(*Peace Be Upon Him*) granted to all Christians *Sayīd Amīr 'Alī* says that *Muḥammad*(*Peace Be Upon Him*) undertook himself, and enjoined on his followers, to protect the Christians, to defend their churches, the residences of their priests, and to guard them from all injuries. They were not to be unfairly taxed, no bishop was to be driven out of his bishopric, no Christian was to be forced to reject his religion; no monk was to be expelled from his monastery; no pilgrim was to be detained from his

Tahdhīb al Afkār Treaties of the Prophet Muhammad Jul-Dec, 2014 pilgrimage. Nor were the Christians churches to be pulled down for the sack of building mosques or houses of the Muslims³⁵.

Sīrah Al Nabī, ‘Allāmah Shiblī Nu’mānī

The *Sīrah Al Nabī* by ‘*Allāmah Shiblī Nu’mānī* comprising seven volumes is that reliable and authentic Urdu book which no other composition has equaled in acclaim and authority. It is considered one of the best books written on the life of Prophet *Muḥammad(Peace Be Upon Him)*.

The author highlights the importance of the treaties of Prophet *Muḥammad(Peace Be Upon Him)* by giving an example of the treaty of *Madīnah*. He makes a mention of the benefits of the said treaty for Muslims and for non-Muslims. The author has discussed the merits and advantages of the treaty of *Ḥudaybiyah* as well.

The author says that when Prophet *Muḥammad(Peace Be Upon Him)* came to *Madīnah*, the first thing he wanted to do was to have the relations between Muslims and Jews elucidated and prescribed. He called the Helpers and the Jews and got the treaty recorded, which was accepted by both the parties³⁶.

The author makes a mention of the renewal of the treaty and says that as the result of the treaty of *Madīnah* the Jews got the security and freedom for their lives, property and religion. At the instigation of *Qurysh* they violated the treaty and Prophet *Muḥammad(Peace Be Upon Him)* wanted to renew the treaty. *Banū Naẓīr* refused and were expelled and *Banū Quryzah* renewed it and were granted peace yet again³⁷.

In connection with the merits and advantages of the treaty of *Ḥudaybiyah* the author says that Muslims and non-Muslims used to see each other very often as a result of the treaty of *Ḥudaybiyah*. They used to discuss issues related to Islam. Every Muslims was a model of sincerity, righteous deeds and good morals and the hearts of non-Muslims were attracted to Islam because of these Muslims³⁸.

Aṣaḥ Al Sīyar, by ‘Abdul Raūf Dānāpūrī

Aṣaḥ Al Sīyar is one of the most prominent books of *Sīrah* in Urdu. This book was written by ‘*Abdul Raūf Dānāpūrī*

Tahdhīb al Afkār Treaties of the Prophet Muhammad Jul-Dec, 2014 in year 1932 AD. ‘*Abdul Raūf Dānāpūrī*’ was a well versed scholar of *Ḥadīth*, *Sīrah* and History. He was one of those scholars who could comply the early sciences with latest thoughts.

Dānāpūrī has highlighted the Islamic perspective and the aims of Islam while signing various treaties with various tribes of Arabia. *Dānāpūrī* is of the opinion that *Muḥammad(Peace Be Upon Him)* did not want war and straightaway he went for reconciliation. Describing the outcomes of the treaty of *Ḥudybīyah* *Dānāpūrī* says that the propagation of Islam and its triumphs were based on this treaty. All the Companions are unanimous that the reconciliation of *Ḥudybīyah* was a great victory and a big blessing. This reconciliation was the reason for the conquest of *Makkah* and the propagation of Islam. The immediate result of the treaty was that the opinion of *Qurysh* and other tribes change to a great extent and their hearts were inclined towards Islam. Another benefit was that Muslims came out of the useless wrestle with *Qurysh* got a chance to concentrate on greater expeditions. Prophet *Muḥammad(Peace Be Upon Him)* wrote letter to the kinds of many states³⁹.

***Ḍīā Al Nabī*, by Pīr Muḥammad Karam Shāh**

Ḍīā Al Nabī is a very renowned book of *Sīrah* written by *Pīr Muḥammad Karam Shāh* who was a well known religious scholar of recent times. *Pīr Muḥammad Karam Shāh* has worked as the justice in the supreme court of Pakistan and in the *Sharī‘ah* appellate bench of the said court. This large big comprises seven volumes of great research and excellent literature about the life of Prophet *Muḥammad(Peace Be Upon Him)*.

In connection with the treaty of *Ḥudybīyah* *PīrKaram Shāh* says that *Qurysh* were not ready to allow Prophet *Muḥammad(Peace Be Upon Him)* and his companions to enter into *Makkah*. Prophet *Muḥammad(Peace Be Upon Him)* did not want any war and wished to settle all the matter efficiently.⁴⁰ The author further says that the pledge of allegiance for ‘*Uthmān*’ was meant to make an impression on the disbelievers about the firm intentions of Muslims and they do

Makkī ‘Usswa’i Nabyī, Muslim Aqlīyatūn kay Masā’il ka Ḥal, by Dr. Yāsīn Maẓ har Siddiqī

Makkī ‘Usswa’i Nabwī, Muslim Aqlīyatūn kay Masā’il ka Ḥal is the book of Dr. Yāsīn Maẓ har Siddiqī; is comprising of eight lectures which he delivered in Indian Hyderabad in July 2003 AD. These lectures were titled as, ‘*Khutbāti Hyderabad*’. This is an important book in terms of the problems faced by Muslim minorities living in various countries.

Besides the description of other treaties of Prophet *Muḥammad(Peace Be Upon Him)* Dr. Yāsīn Maẓ har Siddiqī explains the individual treaties signed In *Makkah*. He writes that another example of the treaties of Prophet *Muḥammad(Peace Be Upon Him)* with *Qurysh* is the individual agreement of peace and security and because of the support of Prophet *Muḥammad(Peace Be Upon Him)* they can also be called an Islamic law of collective co-operation. It was in line with the old traditions of Arabs. There were also agreements between two people and it was also supported by Prophet *Muḥammad(Peace Be Upon Him)*⁴².

Regarding the agreement to safeguard one’s interest Dr. Yāsīn quoted the following *Ḥadīth* of *Saḥīḥ Bukhārī* in which ‘*Abdul Raḥmān al ‘Aaūf*’ describes his agreement with ‘*Umayyah ibn Khalaf*’;

كَاتَبْتُ أُمِّيَّةَ بْنَ خَلْفٍ كِتَابًا بِأَنْ يَحْفَظَنِي فِي صَاعِيَّتِي بِمَكَّةَ وَأَحْفَظُهُ فِي صَاعِيَّتِهِ
بِالْمَدِينَةِ⁴³

I got an agreement written between me and ‘*Umayyah ibn Khalaf*’ that ‘*Umayyah*’ would look after my property (or family) in *Makkah* and I would look after him in *Madīnah*.

Dr. Yāsīn says that this was basically the protection of interest and the title of the chapter given by *Imām Bukhārī* reflects that a Muslim can sign an agreement in *Dār al Ḥarb* and in *Dār al Islam*.⁴⁴

Dr. Yāsīn describes the earnestness of Prophet *Muḥammad(Peace Be Upon Him)* in his treaties and says that the leaders of ‘*Aūs*’ and *Khazraj* had the fear that Prophet *Muḥammad(Peace Be Upon Him)* may leave them after

getting power and they will have to confront with Jews again. Prophet *Muḥammad* (Peace Be Upon Him) assured them his sincerity by these words;

بَلِ الدَّمِ الدَّمِ ، وَالْهَدْمِ الْهُدْمُ أَنَا مِنْكُمْ ، وَأَنْتُمْ مِنِّي أُحَارِبُ مَنْ حَارَبْتُمْ ، وَأَسْأَلُكُمْ
مَنْ سَأَلْتُمْ⁴⁵

(No) but (asking for my) blood would be (like asking for your) blood, and forgiving (my) blood would be (like) forgiving (your) blood, (join hands) with me and I will (join hands) with you, I will fight with who you fight and I will reconcile with who you reconcile.

Reference

1 *Sūrah Al A'arāf* (7:148).

2 *Sūrah Al Sabā* (34:28).

3 Lord McNair, *Law of Treaties*, (Oxford: Oxford University Press, 1986), p. 4.

4 Joseph Gabriel Starke, *An Introduction to International Law*, (London: Butterworths, 1977), p. 5.

5 H. O. Agarwal, Dr., *International Law*, (Lahore: Irfān Law Book House, 1995), p. 257.

6 Lassa Oppenheim, *International Law*, (London: Longmans, Green and Co., 1992), p. 1208.

7 H. O. Agarwal, Dr., *op.cit.*, p. 259.

8 Lassa Oppenheim, *International Law*, (1992), p. 1204.

9 Sarakhsī, *Imām Muḥammad Ibn Aḥmad, Sharḥ Al Sī yar Al Kabī r*, (Beirut: Dār Al Kitāb, 1997), Sec. 4, p. 93.

10 *Muḥammad Ḥamīdullāh, Dr., op.cit.*, p. 567.

11 *Status quo* is a Latin term meaning the existing state of affairs.

12 *Sūrah Al Baqarah* (2:282)

13 Sarakhsī, *Imām Muḥammad Ibn Aḥmad, op. cit.*, Sec . 4, p. 62.

14 *Ultra vires* is a Latin phrase meaning literally beyond powers.

15 *Muḥammad Ḥamīdullāh, Dr., op.cit.*, p. 573.

16 Sarakhsī, *Imām Muḥammad Ibn Aḥmad, op. cit.*, Sec . 4, p. 80.

17 *Muḥammad Ḥamīdullāh, Dr., op.cit.*, p. 580.

18 Ṭāhir Al Qādrī, Dr., *World First Constitution*, (Lahore: Minhāj Al Qur'ān Publications, 1998), p. 53.

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24 *Ibid.*, p. 280.

25 Ghāzī, Maḥmūd Aḥmad, Muḥāḍarāti Sīrah, (Lahore: Al Faysal Nāhrān, 2009), p. 687.

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27 Muḥammad Ḥamīdullāh, Dr., op.cit., p. 148.

28 Ibid., p. 148.

29 Ibid., p. 149.

30 Ibid., p. 140.

31 Ibid., p. 133.

32 Ibid., p. 240.

33 Ibid., p. 149.

34 Ibid., p. 193.

35 Amīr 'Alī, Sayīd, The Spirit of Islam, (Lahore: 'Ilm-o-'Irfān Publishers, 2005), p. 77.

36 Shiblī Nu'mānī, 'Allāmah, and Nadvī, Sayīd Sulymān, Sīrah al Nabī, (Lahore: 'Idārah Islāmīyāt, 2002), Sec. 1, p. 195.

37 Ibid., p. 269.

38 Ibid., p. 283.

39 Dānāpūrī, 'Abdul Raūf, Aṣaḥ al Sīyar, (Karachi: Edarah Islāmīyāt, 2009), p. 211.

40 Shāh, Pīr Muḥammad Karam, Ḍīā al Nabī, (Lahore: Ḍīā al Qur'ān Publications, 1999), Sec. 4, p. 135.

41 Ibid., p. s143.

42 Siddiqī, Yāsīn Maḥhar, Makkī 'Usswa'i Nabvī, (New Delhi: Islamic Book Foundation, 2005), p. 174.

43 Saḥīḥ Bukhārī, Section 8, p. 87.

44 Siddiqī, Yāsīn Maḥhar, op.cit., p. 174.

45 Musnad Aḥmad, Section 3, p. 461.