

The Hudaibiyah Treaty as a Model for International Treaty Law: Analysis of Siyasa Fiqh and its Relevance for Public Law

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Abstract

This study analyzes the Treaty of Hudaibiyyah (6 AH) as a case study in the conception of international treaty law, framing it within the principles of Fiqh Siyasa (Islamic political jurisprudence). The research aims to identify the public law principles contained within the treaty and examine their relevance as a source for enriching contemporary international law. Using a qualitative-normative research method with a library-based approach. Primary sources consist of hadith collections, sirah literature, and classical works on fiqh al-siyasa; secondary sources include books, journal articles, and contemporary studies. Data collection employs library research, and the analysis applies a qualitative-comparative and normative-historical approach. The findings indicate that the Treaty of Hudaibiyyah not only represents a historical event but also serves as a model of diplomacy that emphasizes dialogue, adherence to agreements, and the protection of human rights (particularly in the context of conflict resolution). This analysis reveals that these principles align with several modern international law tenets, such as pacta sunt servanda and the peaceful settlement of disputes. Therefore, this study argues that a review of the Treaty of Hudaibiyyah through the lens of Fiqh Siyasa can provide a significant theoretical contribution to enrich the discourse on public law, while also affirming the relevance of Islamic intellectual heritage as a source of inspiration for shaping a more just and peaceful global order.

Keyword: Treaty of Hudaibiyyah, Fiqh Siyasa, International Treaty Law.

Abstrak

Penelitian ini menganalisis Perjanjian Hudaibiyah (6 H) sebagai studi kasus dalam konsepsi hukum perjanjian internasional, dengan menempatkannya dalam kerangka Fiqh Siyasa. Studi ini bertujuan mengidentifikasi prinsip-prinsip hukum publik yang terkandung dalam perjanjian tersebut, serta relevansinya sebagai sumber pengayaan bagi hukum internasional kontemporer. Menggunakan metode penelitian kualitatif-normatif dengan pendekatan studi

pustaka, Sumber data primer berupa kitab hadits, sirah nabawiyah, dan literatur fiqh siyasah; sumber data sekunder berupa buku, artikel, dan penelitian kontemporer. Teknik pengumpulan data menggunakan studi pustaka, kemudian analisis data dilakukan dengan pendekatan kualitatif-komparatif dan normatif-historis. Hasil penelitian menunjukkan bahwa Perjanjian Hudaibiyah tidak hanya merepresentasikan sebuah peristiwa historis, melainkan juga sebuah model diplomasi yang mengedepankan dialog, kepatuhan terhadap kesepakatan, dan perlindungan hak asasi manusia (terutama dalam konteks penghentian konflik). Analisis ini menemukan bahwa prinsip-prinsip tersebut sejalan dengan beberapa prinsip hukum internasional modern, seperti *pacta sunt servanda* dan penyelesaian sengketa secara damai. Oleh karena itu, penelitian ini berargumen bahwa tinjauan terhadap Perjanjian Hudaibiyah melalui lensa Fiqh Siyasah dapat memberikan kontribusi teoritis yang signifikan untuk memperkaya diskursus hukum publik, sekaligus menegaskan relevansi warisan intelektual Islam sebagai sumber inspirasi dalam pembentukan tatanan global yang lebih adil dan damai.

Kata Kunci: Perjanjian Hudaibiyah, Fiqh Siyasah, Hukum Perjanjian Internasional.

A. Introduction

The Treaty of Hudaibiyah, signed in 628 CE between Prophet Muhammad (peace be upon him) and the Quraysh, is often regarded as an early example of an international treaty that underscores the importance of adherence to agreements, despite the perceived imbalance of its clauses. In the context of modern international law, principles such as compliance with treaties and the peaceful settlement of disputes are fundamental pillars, as codified in the 1969 Vienna Convention on the Law of Treaties.

The development of international law has progressed rapidly in both theory and practice. As with law in general, international law is constantly evolving to keep pace with conflicts and the legal areas it governs. Scholars offer various definitions of international law, including one by Jawahir Thontowi and Pranoto Iskandar, who posit that international law is a series of rules formed exclusively by sovereign states.¹ In his book, *Cases and Materials on International Law*, D.J. Harris defines international law as the law that exists within a community of nations.² F. Sugeng Istanto categorizes international law into two parts: public international law and private international law. Based on this

¹ Jawahir Thontowi, *Hukum Internasional Kontemporer* (Bandung: Refeika Aditama, 2006). hlm. 3.

² D.J Harris, *Cases And Materials On Internastional Law* (London: Sweet & Maxwell, 1998). hlm. 1.

distinction, Istanto defines public international law as a collection of legal provisions whose validity is maintained by the international community.³

The Treaty of Hudaibiyah (628 CE/6 AH) stands as a pivotal moment in the history of Islamic diplomacy, marking a new phase of conflict resolution through peaceful negotiation. Although several of its clauses appeared to favor the Quraysh, the Muslims remained committed to honoring the agreement, thereby demonstrating the centrality of legal compliance and diplomatic strategy in the Islamic tradition.⁴ Beyond securing a temporary truce, Hudaibiyah paved the way for political stability, the expansion of da'wah, and the recognition of the Muslim community as a legitimate political entity.⁵ From the perspective of modern international treaty law, values such as commitment to agreements, strategic compromise, and prioritizing long-term peace render the Treaty of Hudaibiyah highly relevant as an early model of international legal principles.⁶

International law emerged and gained public attention following the end of the First World War, as evidenced by the formation of the first international organization with a large number of member states. This organization was initiated by the major and powerful nations, such as the victors of the World War. This development accelerated with the subsequent establishment of another public international organization, the United Nations (UN), which served as a renewal of the League of Nations (LN). Although the LN failed to accommodate the interests of its member states, the UN did not introduce many substantial changes to the organizational structure. The primary difference was a significantly larger membership in the UN compared to its predecessor.

The binding ties and relationships between states have given rise to private international law, such as the law of international treaties, which is currently more prominent than other aspects of international law. In addition to being the strongest legal basis for dispute resolution, treaties are also a primary source of law. International treaties serve as a concrete form of customary international law recognized by the international community. Prior to the formation of the United Nations (UN), the application of bilateral and multilateral

³ Sugeng Istanto, *Hukum Internasional* (Yogyakarta: Pernerbit Universitas Atmajaya, 1994). hlm. 4.

⁴ M. R. Abubakar, "The Treaty Of Hudaibiyah: Lessons In Peace And Diplomacy," *Religions* 14, no. 5 (2023). hlm. 666.

⁵ Abdul Karim, "Dzulqa'Dah: The Month Of Peace, Diplomacy, And The Prophet's Da'Wah," *Apik Kaliwungu*, 2023. hlm. 76.

⁶ Fadli Rahman, "Hudaibiyah And Modern Treaty Law: Relevance Of Islamic Diplomatic Tradition," *Tashdiq Journal* 11, no. 2 (2024). hlm.145.

treaties was not fully effective because they were not comprehensively codified. This was primarily due to the fact that the creation of treaties was still governed by the rules of customary international law.⁷ The definition of international treaty law is not only articulated by national and international legal scholars but is also mentioned in the Vienna Convention, as stipulated in Article 2:

Treaty means an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.

The aforementioned article states that a treaty is an international agreement concluded between states in written form. The history of international treaties dates back to the Peace of Westphalia in 1648⁸ International agreements have continued to evolve throughout the 21st century. International treaties are not exclusively used by certain religions, races, or groups but are utilized by all elements of the international community, including Muslims. Islam is not merely a religion but also a belief system with clear rules and legal foundations found in the Quran and the Hadith. These two sources are the primary basis of Islamic law, though the general process of legal derivation is divided into ten classifications.

The Professor of International Islamic Law at Al-Azhar University, Cairo, states that the development of international law and Islamic law share a historical connection. This is because the foundational texts of Islamic *Shari'a* inherently contain legal principles and provide details through human *ijtihad* (reasoning and independent legal deduction), while considering the specific context of time and place. This flexibility allows Islamic law to be applied universally across different eras and locations. This characteristic is a fundamental feature of international law, and Islamic *Shari'a* has become a crucial source for the foundational principles of international law in Europe. Ali Mansur explains that international law is not merely four centuries old, nor is it a product of the European millennium. The influence of Islamic developments on international law is also recognized by international legal scholars.⁹ These are some of the reasons and evidence: Civilizational Development and Order, Historical Precedence (or

⁷ Sumaryo Suryokusumo, *Hukum Perjanjian Internasional* (Jakarta: PT. Tatanusa, 2008). hlm. 1.

⁸ John O Briant, *International Law* (London: Cavendish Publishing, 2001). hlm. 79.

⁹ Ali Mansur, *Syariat Islam Dan Hukum Internasional Umum* (Jakarta: Bulan Bintang, 1973). hlm. 31.

Temporal Priority), Recognition of Islamic expansion to the East and West and The fall of Andalusia and the Crusades.

In modern legal perspective, an international treaty is understood as a written agreement between states governed by international law. The Vienna Convention on the Law of Treaties of 1969 serves as the primary reference, affirming fundamental principles such as *pacta sunt servanda* (agreements must be kept), free consent among states, and the peaceful settlement of disputes.¹⁰ These principles emphasize that international treaties are not merely political instruments but binding legal frameworks that guarantee stability and order in international relations.

In the Islamic tradition, interstate relations are guided by Sharia principles that emphasize justice, peace, and fidelity to commitments. *Fiqh siyasah* provides interpretive flexibility through the mechanism of *ijtihad*, allowing Islamic legal thought to adapt to changing global dynamics. This demonstrates that Islamic law is not rigid but capable of making significant contributions to the development of international law, particularly in the areas of diplomatic ethics, treaty compliance, and the promotion of peaceful relations.¹¹

Examining the Treaty of Hudaibiyyah as a model of international treaty law carries substantial urgency. First, it illustrates how Islamic principles can align with contemporary international legal norms. Second, it enriches public law discourse by incorporating historical perspectives and Islamic ethical values. Third, this study is relevant for strengthening a legal paradigm that prioritizes the peaceful resolution of disputes through treaties, thereby offering concrete contributions to both the theory and practice of modern public law.¹²

The treaty of Hudaibiyyah demonstrates how Islam, from its earliest period, developed a framework for inter-community relations grounded in peace, compromise, and legal certainty. The Prophet Muhammad's willingness to accept conditions that initially appeared disadvantageous reveals a visionary diplomatic strategy that prioritized long-term stability over immediate gain.¹³ This approach aligns with modern diplomatic principles emphasizing *mutual recognition* and

¹⁰ United Nations, *Vienna Convention On The Law Of Treaties* (New York: United Nations, Treaty Series.1969). hlm. 78.

¹¹ Mohammad Hashim Kamali, *Principles Of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2021). hlm. 46.

¹² Ahmad Al-Dawoody, "Islamic Law And International Law: Toward A Comparative Methodology," *Journal Of International Law And Politics* 55, no. 3 PY 2023 (n.d.). hlm. 601.

¹³ Ali Merad, *Muhammad And The Hudaibiyyah Treaty: Political Compromise In Early Islam* (Leiden: Brill, 2022). hlm. 13.

respect for the other party as a legitimate legal subject.¹⁴ Moreover, Hudaibiyah illustrates that treaties were not merely political contracts but binding legal instruments with moral weight. Such principles remain highly relevant to contemporary international treaty law, where the validity and durability of agreements are determined by the commitment of parties to uphold their obligations.¹⁵

B. Research Methods

This study employs a qualitative-normative method with a library research approach. This approach was chosen because the focus of the study is to analyze historical and legal texts to identify legal principles. The primary data used are derived from Islamic legal sources, namely the Qur'an and the Hadith of the Prophet Muhammad, which are relevant to treaties and diplomacy. Besides, this research also examines secondary data from Fiqh Siyasah (Islamic constitutional law) texts, Sirah Nabawiyah (the biography of the Prophet), as well as Quranic exegesis (tafsir) and commentaries on the Hadith (syarah hadis). Modern sources are also utilized, such as international law literature, journal articles, and books that analyze the relationship between Islam and contemporary law.

The data analysis was conducted using a descriptive-analytical approach. First, the relevant data were collected, organized, and classified. Second, the texts were interpreted to identify the public law principles embedded within the Treaty of Hudaibiyah. Finally, these principles were analyzed and compared with modern international legal concepts to identify points of convergence and their relevance as a source of enrichment.

C. Discussion and Research Results

Historical Background of the Treaty of Hudaibiyah

Islam is a religion embraced by a significant portion of the population in Asia and is the largest religion globally. Its growth is not limited to an increasing number of followers but also extends to the development of its internal legal system. Muslims have two primary religious sources: the Qur'an and the Hadith. While there are fundamentally ten methods of legal derivation, Indonesia recognizes four main sources of law the Qur'an, the Hadith, *ijma'* (consensus), and

¹⁴ Malcolm N. Shaw, *International Law*, 9th ed. (Cambridge: Cambridge University Press, 2021). hlm. 922.

¹⁵ Olivier Corten and Pierre Klein, *The Vienna Conventions On The Law Of Treaties: A Commentary*, 2nd ed. (Oxford: Oxford University Press, 2022). hlm. 221.

qiyas (analogical reasoning)—which aligns with the consensus of scholars from the four major *madhhabs* (schools of thought).

The Treaty of Hudaibiyyah was concluded in the month of Dhu al-Qa'dah in the sixth year of the Hijra. This treaty marked a significant turning point for the Muslim community, granting them the freedom to perform the Hajj and Umrah. The event was initiated by the Prophet Muhammad (peace be upon him) who had a dream that he and his followers would one day perform these pilgrimages, fulfilling the requirements of the Shari'a such as shaving their heads and other related rituals. This news brought great joy to the Muslims, leading them to believe they would be able to embark on the journey that very year.¹⁶

In his book titled *Sirah Nabawiyah*, Shaykh Safiur Rahman al-Mubarakpuri meticulously details the stages of the events that occurred before and after the treaty was concluded. His work is widely regarded as the best book to date on the life of the Prophet Muhammad (peace be upon him). This is evidenced by the prestigious award he received from Saudi Arabia as the world's best author of a prophetic biography. Consequently, his book has become a primary reference for millions of Muslims worldwide.

The Events that Occurred in the Stages of the Treaty of Hudaibiyyah: The Prophet Muhammad (peace be upon him) and his companions departed with the intention of performing the pilgrimage, but they were barred from entering Mecca by the Quraysh, despite the fact that the month of Dhu al-Qa'dah was one of the sacred months in which fighting was prohibited. The Muslims encamped at Hudaibiyyah, where several Quraysh envoys including Budail ibn Warqa', Hulaish, and 'Urwah ibn Mas'ud were sent to ascertain their intentions. These envoys, upon seeing the pilgrims in ihram and the sacrificial animals, confirmed that the Muslims' mission was peaceful.¹⁷

Despite this, Quraysh hostility continued. A group of their men launched a covert attack on the Muslim camp, but they were captured and released unharmed by the Prophet, underscoring his commitment to peace rather than war. Tensions rose further when 'Uthman ibn 'Affan was dispatched as an emissary and his return was delayed, leading the Muslims to pledge allegiance under a tree in what

¹⁶ Syeikh Safy Al-Rahman Al-Mubarakfuriyy, *Sirah Nabawiyah* (Jakarta: Pustaka Al Kautsar, 2008). Hlm. 228.

¹⁷ Muhammad Hamidullah, *The Muslim Conduct Of State* (Lahore: Sh. Muhammad Ashraf, 1987), 60. hlm. 215.

became known as the Bay‘at al-Ridwan, an event explicitly affirmed in the Qur‘an (Q. al-Fath 48:18).¹⁸

Eventually, formal negotiations were held. Quraysh appointed Suhayl ibn ‘Amr as their representative, while the Prophet delegated ‘Ali ibn Abi Ṭalib to draft the agreement. Despite Suhayl’s intransigence and insistence on altering religious formulas in the treaty’s wording, the Prophet demonstrated patience and flexibility, consenting to Suhayl’s demands. This paved the way for the Treaty of Hudaibiyyah, concluded in Dhu al-Qa‘dah 6 AH (March 628 CE), which became a landmark precedent for Islamic diplomacy and international treaty practice.¹⁹ The series of events illustrates that the Treaty of Hudaibiyyah was not a simple agreement that disadvantaged Muhammad and his followers. Instead, it was a strategic move by the Prophet to ensure that the Muslim community could, in the future, carry out their affairs easily and freely, without threat or disturbance. The Prophet was well aware that the Quraysh would likely violate the treaty, as their character and nature were prone to breaking agreements they had entered into. Furthermore, the treaty served as a *de jure* and *de facto* recognition of the existence of Madinah as a distinct entity. It effectively granted Muhammad and his followers a status equal to that of Mecca. Consequently, this agreement can be interpreted as a treaty between two separate states or political entities.

The Concept of International Agreements in Legal Perspective

International treaties are a key issue in the resolution of international-level conflicts. They not only serve as the legal basis for binding the contracting parties but also as a legal foundation for resolving disputes between states and other subjects of international law. The precursor to what is now recognized as international law by the international community was the implementation of the Peace of Westphalia. This war lasted for approximately 30 years (1619–1648), with the treaty negotiations taking place over three years in Münster and Osnabrück. The Peace of Westphalia is not merely a starting point for the history of international law; it is also considered the birthplace of European international law.²⁰

¹⁸ Majid Khadduri, *War And Peace In The Law Of Islam* (Lahore: Johns Hopkins University Press, 1955), hlm. 209.

¹⁹ Ali Mansur, *Perjanjian Hudaibiyah: Studi Politik Hukum Islam* (Jakarta: Rajagrafindo Persada, 2005). hlm. 133.

²⁰ Arthur Nussabaum, *Sedjarah Hukum Internasional* (Jakarta: Franklin Book Programs, 1970). hlm. 1.

The Peace of Westphalia is regarded as a pivotal moment in the early development of international law. Over time, this peace treaty has become a primary point of reference for explaining the history of international treaties. Consulting prior agreements is a key method for interpreting new international treaties, and a treaty remains in force as long as it is not superseded by a new one.

There are three important reasons why the Peace of Westphalia is considered the foundational moment for the development of international law:

- a. The Peace of Westphalia was accepted and recognized by 300 states and principalities, including many from the Holy Roman Empire. As a result, each of these member states was granted recognition and permitted to engage in actions with international consequences, such as declaring war or conducting invasions. However, this new sovereignty was balanced by a prohibition on attacking the Holy Roman Empire itself.
- b. This peace treaty resulted in the first international recognition of Protestantism, a feat that surpassed the achievements of the Peace of Augsburg in 1555. Because conflicts between Catholics and Protestants had the potential to escalate into humanitarian violence, this treaty established a balance that maintained religious and security stability.
- c. The Peace of Westphalia brought about significant changes to the political status of European states.

In his book on international law and Islamic law concerning peace disputes, Professor Ashri, quoting Muhammad Hafidz Ghunaim, states that agreements similar to the Peace of Westphalia in their influential impact on the European political order included the Peace Treaties of Utrecht (1713), Aix-la-Chapelle (1748), the Congress of Vienna (1815), the Treaty of Paris (following the Crimean War, 1853-1856), and the Treaty of Versailles (along with the treaties of Saint-Germain, Trianon, Neuilly, and Lausanne, 1919-1923).²¹

The evolution of treaty law had a significant impact on the development of international treaty law. This culminated in the Vienna Convention, which became the primary source and legal basis for international treaties. The convention holds significant importance in international law, as it serves as the foundation for international agreements concluded by states and other legal subjects in the 21st century. This widespread influence is attributed to the convention's authority and extensive membership. According to an Austrian historian, approximately 16,000

²¹ Ashri Muhammad and dkk, *Hukum Internasional Dan Hukum Islam Tentang Sngketa Perdamaian* (Jakarta: PT Gramedia Pustaka Utama, 2013). hlm. 352.

treaties were signed between the Final Act of the Congress of Vienna and 1924. Meanwhile, a source in the United States reported that the number of existing treaties was around 10,000 by 1917.

The influence of the Peace of Westphalia and subsequent treaties on the development of international law and international treaty law was immense. The evolution of international treaty law was not only shaped by these multilateral agreements but also by the doctrines articulated by prominent international legal scholars such as Grotius, Anzilotti, D.J. Harris, O'Connell, and Brierly.

Their scholarly opinions serve as a reference point for experts worldwide in interpreting and explaining international law in both theory and practice. Their work is also widely referenced by Indonesian international law experts, including Prof. Mochtar Kusumatatmadja, Prof. Hikmawanto Juwana, Sumaryono Suryokusumo, Sugeng Istanto, Prof. Sigid Riyanto, and Prof. Agustinus Supriyanto, among others. The contributions of these numerous scholars have led to the continuous development and evolution of international law and treaties, adapting them to the changing times.

With the advancement of time and technology, the enforcement power of international law is no longer limited to mere appeals, advice, or warnings. Instead, it has progressed to the stage of imposing severe sanctions on states and other subjects of international law who commit international crimes. This is particularly evident in economic matters, as nearly all nations are influenced by the prevailing liberal and capitalist economic systems of the 21st century. Consequently, no state or international organization today can avoid the binding authority of international law.

Siyasah Fiqh Perspective

From the perspective of *siyasah fiqh*, the Treaty of Hudaibiyah represents one of the most profound precedents of Islamic diplomacy, which integrates religious values with pragmatic political considerations. The Prophet Muhammad's decision to enter into a treaty that appeared to disadvantage the Muslims such as the delayed entry to Mecca and the return of fugitives demonstrates the flexible nature of *Siyasah Shar'iyah* in prioritizing *Maslahah* (Public Interest) and long-term stability over immediate gains. This approach highlights that Islamic political jurisprudence does not merely aim at theological formalism but also embraces realpolitik guided by divine principles. The Hudaibiyah case thus serves as a foundational model where *Fiqh Siyasah*

legitimizes compromise, negotiation, and the pursuit of peace as essential components of international treaty law within an Islamic framework.²²

Furthermore, the significance of *Siyasah Fiqh* in analyzing the Hudaibiyah Treaty lies in its contribution to the broader discourse of public law. The treaty demonstrates that political agreements under Islamic governance can be both legally binding and morally grounded, ensuring justice and security for all parties involved. The Prophet's strategic vision in this treaty reflects the duality of *Siyasah*: safeguarding the community's religious mission while maintaining peaceful coexistence with external actors.²³ By examining this treaty through the lens of *Fiqh Siyasah*, modern scholarship can uncover how Islamic legal thought intersects with contemporary notions of international law, particularly regarding sovereignty, *pacta sunt servanda* (the binding nature of treaties), and the protection of communal welfare.²⁴

The Treaty of Hudaibiyah as a Model for International Treaty Law

The Treaty of Hudaibiyah served as evidence and legal recognition of Madinah as a political entity, establishing the community of Prophet Muhammad as an organ or society with a status equal to that of Mecca, a respected state in the Arabian Peninsula. The clauses contained within the Treaty of Hudaibiyah not only became a reference point for Muslims in their agreement with the Quraysh but also served as a legal basis for subsequent treaties. The Clauses of the Treaty of Hudaibiyah are as follows:²⁵

- a. This year, Muhammad and his companions must return to Medina and postpone their pilgrimage. They are permitted to return the following year.
- b. The following year, Muhammad and his companions will be allowed to enter Mecca for a period of three days. The only armaments permitted will be sheathed swords; no other weapons are to be carried.
- c. Any Arab tribe wishing to form an alliance with either Muhammad or the Quraysh is free to do so without interference.

²² Muhammad Hamidullah, hlm 67.

²³ Wahbah al-Zuhaili, *Al-Fiqh al-Islāmī Wa Adillatuhu*, Juz VIII (Damascus: Dār al-Fikr, 1989). hlm. 204.

²⁴ Majid Khadduri, hlm 207..

²⁵ Abu Haif, "Perjanjian Hudaibiyah (Cermin Kepiawaian Nabi Muhammad Saw. Dalam Berdiplomasi)," *Jurnal Rihlah* 1, no. 2 (2014). hlm. 126.

- d. Any individual from the Quraysh who goes to Medina without the permission of their guardian must be repatriated. Conversely, any Muslim from Medina who wishes to join the Quraysh will not be returned.

The aforementioned Treaty of Hudaibiyyah is a bilateral agreement concluded between two parties: the Prophet Muhammad (peace be upon him) representing Madinah, and the Quraysh representing Mecca. Citing the opinion of Mochtar Kusumaatmadja, Edy Suryono defines a bilateral treaty as an agreement concluded by two states to regulate the interests of both parties.²⁶ One of the consequences of an agreement is being bound by the agreement itself. This is known as the principle of *pacta sunt servanda*, which dictates that a treaty is binding upon the parties who have concluded it, and they are obligated to comply with what has been agreed upon.²⁷

In the conclusion of treaties, Islam does not restrict itself to its own internal legal provisions. This is because Islamic law recognizes and can adopt external regulations and methods, provided they serve the greater good (*Maslahat*) of the community. Regarding the Treaty of Hudaibiyyah, Al-Nawawi states that a leader has the authority to conclude a peace treaty as long as it is considered to achieve a benefit (*Maslahat*) for the Muslim community, even if the treaty initially appears to some as not being beneficial.²⁸ This is further supported by Professor Ashri, who states that international agreements concluded between Muslims and non-Muslims are not required to be in full alignment with internal rules. This is because the primary consideration for such agreements is to achieve a benefit (*Maslahat*) for the Muslim community, provided that they do not violate the fundamental provisions of the *Shari'a*.

The Treaty of Hudaibiyyah did more than just regulate the mutual interests of the two parties; it importantly contained and applied fundamental principles of international law. The application of these international principles such as voluntary consent, *pacta sunt servanda*, and *pacta tertiis nec nocent nec prosunt* signifies the treaty's existence and legitimacy as a true international agreement. These principles were implicitly present and served as the

²⁶ Edy Suryono, *Praktek Ratifikasi Perjanjian Internasional Di Indonesia* (Bandung: Remadja Karya CV, 1984). hlm.13.

²⁷ R. Soeroso, *Pengantar Ilmu Hukum* (Jakarta: Sinar Grafika, 2011). hlm. 171.

²⁸ Ashri muhammad, dkk, hlm. 363.

foundational rules for the implementation of the Treaty of Hudaibiyah, even without being explicitly stated in the text of the agreement itself.

The development of international law has established a strong legal foundation and a framework for analyzing the consequences of historical treaties. This includes the Treaty of Hudaibiyah, which, although its participants were not explicitly familiar with the elements or principles of modern international treaty law, inherently embodied all the key elements that are now recognized. This aligns with the concept of theoretical history, which posits that a theory or discovery cannot emerge without prior actions and precedents. It is from this historical foundation that the continuous development of international law proceeds.

The Treaty of Hudaibiyah illustrates several key principles of international law. First, the Prophet Muhammad SAW upheld the agreement despite its seemingly disadvantageous clauses, embodying the principle of *pacta sunt servanda*, later codified in the 1969 Vienna Convention as the foundation of treaty law. Second, the treaty highlights the peaceful settlement of disputes, providing a model of conflict resolution that aligns with the United Nations Charter and remains a core norm of contemporary international relations.

In addition, the treaty reflects the integration of norms and identity within international relations. The Muslim community's adherence to their promises was not merely political but rooted in Islamic norms that emphasize the sanctity of agreements. This constructivist dimension underscores how collective identity and moral commitments shaped their behavior, strengthening both the legitimacy of the treaty and its long-term impact.

D. Conclusion

The Treaty of Hudaibiyah is often regarded by Muslims as a landmark in the practice of international agreements, as it marked the formal recognition of the Muslim community's political standing vis-à-vis Quraysh. This is evident in an authentic narration when the Prophet Muhammad SAW affirmed: *"By Allah, I will not refuse any request that magnifies the symbols of Allah"* (Ṣaḥīḥ al-Bukhārī, no. 2731), demonstrating his consistent commitment to peace accords. Classical historians such as Ibn Hisham and al-Tabari describe Hudaibiyah as an agreement that paved the way for recognition of the legitimacy of the Muslim polity in the Arabian Peninsula. Modern scholars have further emphasized Hudaibiyah as a proto-model of international treaty law. Majid Khadduri notes that Islam from its inception provided a framework for interstate relations based

on justice, peace, and respect for agreements. Likewise, Hamidullah highlights Hudaibiyyah as a “proto-treaty” containing essential elements of modern international law, particularly in its stipulations on ceasefire and de facto recognition. A comparison with the Peace of Westphalia (1648) must, however, be contextualized. While emerging in vastly different historical settings, both treaties share a commonality in affirming political recognition and stability. Westphalia laid the foundation for the modern sovereign state system in Europe, whereas Hudaibiyyah established recognition of the Muslim community as a political subject in Arabia. To illustrate possible channels of Islamic influence on European international law, one must consider the transmission of legal values through Andalusian civilization and Mediterranean diplomatic exchanges. Furthermore, the principles of *pacta sunt servanda* and *good faith* in modern international law find clear parallels in Islamic law. The Qur’an underscores the principle of *wafā’ bil-‘ahd* (fulfilling covenants) in Qur’an 5:1, and the value of *amanah* (trustworthiness) in fulfilling agreements in Qur’an 16:91. This historical continuity demonstrates that commitment to treaties is a universal norm embedded within the Sharia, thereby bridging Islamic jurisprudence with contemporary international law.

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