Contents

Acknowledgements vii
Table of Cases xiii
Table of Treaties xv
Glossary xix

Introductory Reflections and the Scope of the Study 1

Scope of the Study 3
Structure of the Book 4
The 'Clash of Civilisations' and the 'New World Order' 7

1 The Sources of *Sharia* and the Ethos of an 'Islamic' Identity 10

Introduction 10
The Sources of the *Sharia* and *Siyar* 11
Secondary Sources of *Sharia* 14
Understanding the Content and Scope of the *Sharia* 15
Extrapolating Legal Norms from Religious Sources 17
Permutations of Legal Schools of Thought 18
Surveying Islamic State Practices 21
Impact of European Imperialism upon the Muslim Peoples 24
Modern Islamic States and Issues of Islamic Identity 26
The Organisation of the Islamic Conference (OIC) 27
Institutions of the OIC 28
Subsidiary Organs of the OIC 30
Affiliated Insitutions 33
Additional Institutions 37
Specialised Institutions and Organs 37
Standing Committees 40
Conclusions 42

2 The *Sharia* and *Siyar* in the Development of the Law of Nations 44

Introduction 44
Sharia and the Law of Nations 45
Jihad, Violence and International Terrorism: Articulation of Legal Principles 51
Contextualising *Jihad* and the Use of Force: Intertemporal Law and Compatibilities with Modern Norms of International Law 53

The Use of Force and Religious Tolerance 60
Ideology of Tolerance and Modern State Practices 65
Conclusions 69

3 Conceptualising Terrorism in the International Legal Order 71

Introduction 71
The Definitional Issues 73
Recent Developments on Definitional Issues 77
Review of Comparative Regional Perspectives on Terrorism 79
Examining the Substance of Terrorism in the Development of International Law 83
International Efforts to Formulate Legal Principles Prohibiting All Forms of Terrorism 85
Dealing with Specific Terrorist Activities 92
Conclusions 95

4 Hostage-Taking in International Law and Terrorism against 'Internationally Protected Persons' 97

Introduction 97
Hostage Taking: Denial of Fundamental Human Rights and the Breach of Peremptory Norms of International Law 98
Islamic Perspectives on the Convention 101
Internationally Protected Persons and International Law 112
The New York Convention and Internationally Protected Persons 113
Islamic Perspectives on the Protection of Diplomats 117
Articulation of the Rights of Internationally Protected Persons Under Islamic Law 119
The *Sharia* and Hostage-Taking of Internationally Protected Persons 123
Abuse of Immunity by Internationally Protected Persons 126
Conclusions 129

5 Aerial and Maritime Terrorism 130

Introduction 130
Aerial Terrorism 131
Combating Aerial Terrorism 132
Dealing with Aerial Sabotage 136
Islamic Treaty Ratifications on Aerial Terrorism 139
Incidents of Conflict and Islamic States 141
Judiciousness and Approaches to Accountability 142
Accountability for Terrorist Offences 151
Maritime Terrorism 152

The *Achille Lauro* Incident and Islamic State Practices 153
Examining the Legitimacy of the US Use of Force 155
The Adoption of the Convention 155
Human Rights Concerns 157
Islamic States' Involvement with the Maritime Convention 159
Conclusions 161

6 Financing of International Terrorism 163

Introduction 163
The United Nations and Attempts to Curb Financing of International Terrorism 165
Combating Financing of Terrorism: The International Convention for the Suppression of the Financing of Terrorism (1999) 168
9/11 and Implications for Islamic Communities and Institutions 183
Curbing the Financing of Terrorism and Islamic State Practices 186
Conclusions 189

7 The OIC and Approaches to International Terrorism 191

Introduction 191
Terrorism, Antagonism and a Lack of Trust Amongst Islamic States 192
The Establishment of the OIC: Reacting to External Aggression 194
Aggression and Terrorism versus the Right to Self-determination: Cases of Crises 200
The OIC and Legal Instruments Combating International Terrorism 210
The Role of the OIC and its Member States in the Aftermath of 11 September 2001 217
Conclusions 220

8 Concluding Observations 221

Positioning Islam within the Context of International Terrorism 221
Rationalising the debate on a Culture of Conflict and the 'Clash of Civilisations' 223
11 September 2001, Islamophobia and the Future for Muslims 227

Select Bibliography 231
Index 247