According to the classical Muslim doctrine, the “raison d’être” of the Islamic state is to achieve the universal rule of Islam. Hence, it conceived the Islamic state as a universal state by its very nature. As a corollary to this idea, Muslim caliphs were determined to wage a constant war of conquest in the name of Islam, which they carried out, successfully, during the first century of the Islamic era. This claim for universalism gave rise to the establishment of the doctrine of Jihad as the instrument of the Islamic state to perform its function, whenever peaceful methods fail.

But victorious Islam failed to complete the sun’s circle as it halted, in the east, at the borders of India, and failed, in the north, to penetrate the mighty walls of Constantinople (717/18), while in the far west it endured a decisive defeat at Tours (732).

Failing to correspond to the then known world, the Islamic state had to confront two major problems, i.e. its relations with the non-Muslim states that remained outside its orbit; and the treatment of the non-Muslim subjects residing in its territory. In this situation the classical doctrine developed two notions: namely, the division of the world into the Muslim world and non-Muslim world and the rules regulating the status of the dhimmis in dar-al Islam. Therefore the classical conception of Muslim international law is based on those main precepts, i.e. the jihad, the division of the world into two parts and the status of the dhimmis. Consequently, we will tackle these topics below.

**Terminology**

Etymologically the word “jihad” is derived from jahada or juhd meaning ability, exertion or power. Hence, jihad, literally, means “an
effort directed towards a determined objective’’; ¹ i.e., (1) against a visible enemy, (2) against the devil, (3) against one’s self, *nafs*. According to ibn Athir ² “*jihad*” means fighting with unbelievers, and that is an intensive form, (*mubalaghah*), and exerting one’s self to the extent of one’s ability and power whether it is by word (*qawl*) or deed (*ji’d*”). Lane ³ gives the following significance: “*Jihad*, inf. n. of *Jahada*, properly signifies the using or exerting of one’s utmost power, efforts, endeavours, ability in contending with an object of disapprobation, and this is of three kinds, namely, a visible enemy, the devil, and one’s self, all of which are included in the term as used in the Sur. XXII. 77.” However, Muslim jurists used the word *jihad* in a narrower sense due to the fact that when they codified Muslim law in their books of *fiqh* they had to deal with the various subjects of law amongst which fighting, *qital*, had to find a place. Admittedly, the jurists had to interpret the term “*jihad*” in a legal sense. For this reason they disregarded the connotation of the *jihad* as the invitation to Islam – as being of no legal significance on the assumption that such invitation implies a matter of free individual choice. They dwelt on using the word *jihad* as a synonym to the word *qital*. In the course of time this narrow legal use prevailed and the wider significance of the word faded away, though it is accepted by the commentators of the Qur’ān when dealing with some injunctions such as XXV : 52. ⁴ This misuse of the term coincided with the development of a doctrine advocating that the Muslims were to carry on a permanent war against non-Muslims even aggressively or, in other words, in Muslim law the *jihad* “is a sanction against polytheism and must be suffered by all non-Muslims who reject Islam or, in the case of the *dhimmis*, refuse to pay the poll tax. The *jihad*, therefore, may be defined as the litigation between Islam and polytheism, it is also a form of a punishment to be inflicted upon Islam’s enemies and the renegades from the faith.” ⁵ If we use Klein’s words, *jihad* is “The fighting against unbelievers with the object of either winning them over to Islam, or subduing and exterminating them in case they refuse to become Muslims, and thus causing Islam


³ Lane’s Arabic-English Lexicon.

⁴ The verse reads “So obey not the disbelievers, but strive against them herewith a great endeavour.”