

Book Review – The Islamic Conception of Justice (Majid Khadduri)

The Islamic Conception of Justice is an important tome in understanding a key element of Islam, because justice is the key concept in Islamic thinking. It was written by the late Majid Khadduri, a professor of Middle Eastern Studies and founder of the Paul H. Nitze School of Advanced International Studies, Middle East Studies program, at the Johns Hopkins University.

Khadduri begins by describing a fundamental dichotomy in law. Societies that assume that men are capable of identifying and acting in accordance with individual and collective interests will base law, called positive law, on the interactions between those interests and existing conditions. Societies that assume that men are incapable of rising above personal failings to embrace individual and collective interests cannot base law on human capabilities but must do so on something else, typically revelation. Positive law assumes that man is more or less able and good, and Divine Law assumes that man is, more or less, not able and good. It is impossible to understand law in any context without understanding this fundamental distinction. In Islam, Divine Law comes from the revelations of the Quran and the Hadith, which are eternally authoritative and binding on all men. Reason (ijtihad) is applied to these texts to discover answers to questions not clearly addressed in either. It is also used to contextualize decisions.

As a fundamental purpose of the Quran is to produce a just society, Dar al Islam, on earth, one of the first tasks of Political Justice is to produce the “God selected” ruler. Sunni and Shia have different criteria for this selection¹, and some schools invest him with executive, legislative and judicial power while others only two of the three.² Implicit in questions of justice is the question of whether or not man is a free moral agent and therefore responsible for his actions. Like Christians, who struggle with the same question, Muslim scholars generally adopt a combination of these approaches.

Khadduri’s treatment of theological justice includes elements, such as the relationship between reason and revelation, which have vexed Muslim and Christian thinkers for centuries, although the foundations from which they reason are vastly different. Philosophical justice describes the just or virtuous city, envisioning how justice looks on a practical level. Ethical justice continues in this practical vein, teaching about the four key virtues of wisdom, courage, temperance and justice and providing specific guidance on functionaries in a just society.³ Legal justice focuses on judges and judicial procedure, and social justice describes how Islam seeks to promote equality in society.

The author’s chapter on Justice among Nations is enlightening but troublesome, as he writes “no other standard of justice would have been acceptable to Islam save the standard of God’s justice, which had to prevail, if necessary, by the sword.⁴” So much for the peaceful spread of Islam so often attested to by liberal thinkers. If Islam the religion could not be spread by compulsion, as specified in the Quran but done nonetheless in practice, Islam the political system was to be advanced no matter how bloody the process. For those who missed the point, Khadduri repeated the idea when he said “the ultimate objective of Islam was to establish peace and justice with communities which acknowledged the Islamic public order.⁵” Non-believers whose lands were overrun by armies

¹ Majid Khadduri, *The Islamic Conception of Justice* (Baltimore: Johns Hopkins University Press, 2001), 16-17.

² *Ibid.*, 86.

³ *Ibid.*, 131.

⁴ *Ibid.*, 162.

⁵ *Ibid.*, 163.

espousing Islam therefore had three choices; 1) accept Islam as a political system, keep your current religion, and tolerate higher taxes and other forms of discrimination or slavery, 2) accept Islam as a political system and religion, or 3) die. The fact that some dhimmi, as non-Muslims were called in a Muslim state, rose to levels of importance does not change these basic options and speaks more of individual excellence than systemic justice. This reality only changed when the Christian nations of the West grew too strong to be crushed by Muslim ones. If non-Muslim majority nations again become weaker than Muslim-majority ones, will Muslim nations revert to their old ways?

Khadduri's last chapter explains how Islamic concepts of justice have changed under modern, especially Western, influence. He notes the two main reactions, Modernists such as Ataturk who adopted purely secular systems of justice in Turkey while retaining Islam as a religion, and Revivalists such as the Ayatollah Khomeini who rejected the modernism of the Shah in Iran and reinstated strict Islamic forms. He states that the classic state of war between Islamic and non-Islamic states has been replaced with a system of cooperation; clearly a good thing. Khadduri also implies that Islam, as well as Christianity, is being relegated to a domestic, religious role, leaving justice and politics to secular answers. Had he lived to see Al Qaeda and ISIS, he may not have held that view for long.

Conclusion

Khadduri's *Islamic Conception of Justice* is indispensable in understanding Islam. As part of a general overview of Islam, it ranks alongside Marshall Hodgson's *Venture of Islam* (history), Malaise Ruthven's *Islam in the World* (topical), Fazlur Rahman's *Major Themes of the Quran* (theology), Oliver Leaman's *Islamic Philosophy* (philosophy), and Al Misri's *The Reliance of the Traveler* (law) as seminal references. Writing for an English-speaking audience he seems anxious to portray Islam in a good light, as any Muslim would, but he does not shy away from historical realities as noted above. As an Iraqi living in the US, Khadduri kept Islam for his religion but chose a Western secular government with Judeo-Christian roots rather than an Islamic one. He seems to hope that his co-religionists will do the same.