

Book Review

In Pursuit of Justice: The Jurisprudence of Human Rights in Islam

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What is the relationship of Islam to the modern state? What value does *fiqh* (jurisprudence) created centuries back have in the 21st century? Can Islamic values reduce tyranny and spread justice, and are they compatible with human rights as defined by international standards? Many Muslims experience injustice and oppression in state after state and ask: Where does the Muslim world go from here?

Dr. Hathout's aptly titled book, "In Pursuit of Justice: The Jurisprudence of Human Rights in Islam", attempts to address the challenges facing and confronting the Islamic tradition of civilization.

To answer these provocative questions, the authors use the Quran as a bedrock reference and resource and uses hadiths (reports about the Messenger Muhammad ﷺ) with the limitations recognized by classical scholars that many contemporary Muslims ignore.

The book includes an introduction, 16 chapters, a conclusion, and two important appendices entitled "Our Approach to Quran" and "Our Approach to Hadith." These appendices are essential in understanding the methodology the authors employ. Regarding the Quran, the authors write:

The simplistic notion that all one has to do is be willing to accept that God makes the laws, and then open up the Quran and find the answer, must be dispensed with. ... Once this submission [to God as the source of law] is achieved, the second portion of the test begins: trying to actually discern and understand what it is that God wishes for us to do, in our time and place, and our circumstances. (p. 415)

Of particular relevance in this chapter is the authors' discussion of using narrated texts to inter-

pret the Quran (*al-tafsīr bi al-ma'thūr*). While the authors recognize an important role for narrated texts in the interpretation of Quran, they maintain that these texts have important limitations and interpretation of the Quran by soundly directed opinion is critical.

Regarding the limitations of hadith, the authors begin with the classification of the authentic hadith into grades of strength, from *mutawātir* (generationally transmitted en masse) to *ṣaḥīḥ* (sound) to *da'īf* (weak). To illustrate the importance of the limitation of classification, the authors point out that Imam Bukhārī in his collection did not include more than 99% of the Hadith he heard. More important, later Muslim scholars, while unanimously respecting Bukhārī's piety and scholarship, freely criticized his decisions of inclusion and exclusion and aspects of his methodology.

The authors have an excellent discussion about the authority of a particular authentic hadith in matters of law. Determining this requires eliciting all narrations, particularly Quranic, relevant to a topic, proper use of *qiyās* (analogical deduction), preserving flexibility as a cornerstone of the Messenger Muhammad's teachings ﷺ, and considering social circumstances, welfare, and intent. Furthermore, most jurists do not believe that solitary narrations (*āḥād*), even if they are *ṣaḥīḥ*, impart positive or certain knowledge (*qaṭ'ī*) unless supported by external or circumstantial evidence. The jurist must also determine if a hadith has legal orientation (*tashrī'ī*). Even *tashrī'ī* hadith is divided into those matters specific to issues during the lifetime of the Messenger ﷺ and those general matters that apply to all Muslims. This latter category is divided into subgroups: prophetic, (demanding the attention of each individual Muslim), executive (specifying executive prerogatives and limits) and judicial (specifying judicial prerogatives and limits). The question, "Is this hadith *ṣaḥīḥ*?", "should be the beginning and not the end of the inquiry on how to understand and apply the hadith." (p. 477)

Each of the 16 chapters that form the body of the book discusses a human rights issue. Chapter 2,

“Constitutionalism”, reproduces the 47 provisions of the constitution of Medina. These provisions provide the framework for a functioning and just Islamic state. The rights of indigenous and immigrant Muslims are clearly outlined as are the expected relations with Jews and other tribes. This pluralistic community in Medina was made of autonomous social groups governed by rule of law, religious freedom, plurality and equality of all citizens, with clear delineation of the power of the state and guarantees regarding the individuals’ fundamental human rights.

In Chapter 3, “Democracy”, the authors make a compelling case regarding the compatibility of Islam and democracy and conclude: “Islam is not merely compatible with democracy, it demands democracy.” (p. 83) The authors also describe the huge gap between what Islam demands versus the current reality in most of the Muslim world, where monarchs and dictators for the most part ignore or suppress the popular will of the governed.

Chapter 4, “Sanctity of Life”, discusses current issues of biotechnical parenting, suicide, euthanasia and other related topics.

Regarding freedom of speech, the authors write: “... [A]ny society which does not guarantee full protection of freedom of speech as a legal and political right has betrayed Islam.” (p. 130) Regarding freedom of religion, the authors proclaim, “All citizens have the same right to freedom of belief and worship regardless of the actual faith they follow.” (p. 159) In another passage, the authors write:

All citizens, regardless of religious identity, are entitled to equal respect and equal treatment before the law. This is part of the state's responsibility to uphold justice for all its people. (p. 221)

In Chapter 7, “Status of Women,” the authors give examples of countries such as Taliban-ruled Afghanistan, Pakistan, and Saudi Arabia, where women face severe restrictions and are treated as second class citizens. They conclude:

To the extent that their proponents claim to be enforcing an Islamically-mandated blueprint of gender relation, this blueprint represents a harsh, intolerant and misogynistic view of Islam that is contrary to the dignity,

respect and freedom that are the rights of Muslim women, as granted to them by God. (p. 198)

I encourage all Muslims, particularly those living in America, to read, absorb, and digest this landmark book. We at the Islamic Center of Long Island in Westbury, New York, provide this book to our non-Muslim guests who seek answers to questions regarding Islam and Muslims.

The book challenges Muslims to return to intellectual vitality via debate and discussion throughout the Muslim world, led by the best scholars, but accessible to the average educated Muslims. The authors hope that this book will help develop a Muslim-American religious life based on intellectual and scholarly rigor in constructing a framework for arguments. This book can serve as the starting point for advocating a more progressive Islamic perspective on human rights issues.

The primary author, Dr. Maher Hathout, was born in Egypt. He is a physician, pioneer, and tireless worker for the community in general and Muslims in particular. He was a key player in the development of the Islamic Center in Los Angeles and a guiding light for the Muslim Public Affairs Council. Dr Hathout has been active in interfaith initiatives and frequently is invited to Capitol Hill and the State Department to address a variety of topics dealing with Islam and Muslims. The American Muslim community is indeed blessed to have Dr. Hathout during these turbulent times.

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