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## Justice and Rights

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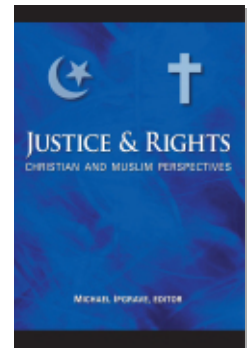
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## Notes to Part I

1. This essay is based on the inaugural Multaqa Sultan Haji Ahmad Shah Lecture, Kuantan, October 14, 2002, an event organized by the Institute of Islamic Understanding, Malaysia.
2. See also the comments on these verses by Mustansir Mir in chapter 3.2 in this volume; al-Nisā' 4:58, 59.
3. E.g., an-Nawawi, Riyadh as-Salihin, 81:679, in Muhammad Zafrulla Khan, ed., *Gardens of the Righteous* (Manchester: Routledge, 1995), 137.
4. al-Bukhārī, 3:592.
5. See, e.g., Mohammad Hashim Kamali, *Islamic Law in Malaysia: Issues and Developments* (Kuala Lumpur: Ilmiah, 2000), 203–20; and, Kamali, *Freedom of Expression in Islam* (Cambridge: Islamic Texts Society, 1997), 87–106, 212–50.
6. Further comments on *hisba* and *naṣṭha* can be found in Kamali, *Freedom of Expression in Islam*.
7. It is no coincidence that activist poet-priest Daniel Berrigan is one of Isaiah's more perceptive modern interpreters. See his *Isaiah: Spirit of Courage, Gift of Tears* (Minneapolis, MN: Fortress, 1996).
8. The books of Joshua through Kings.
9. *The Book of Common Prayer*, 390; cf. 384, 387, 820–22.
10. Biblical translations both here and for the New Testament texts later are from the New Revised Standard Version.
11. As in Isaac Watts's hymn: "Jesus shall reign where'er the sun / Does his successive journeys run; / His kingdom stretch from shore to shore, / Till moons shall wax and wane no more."
12. Translations are from Abdullah Yusuf Ali, *The Holy Qur'an: English Translation and Commentary* (Lahore: Shaikh Muhammad Ashraf, 1934), with minor idiomatic modifications by Mohammad Hashim Kamali.
13. Citations to psalms will be made parenthetically in text.
14. Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 1991), 348, explains the distinction: "The Right of God is so called not because it is of any benefit to God, but because it is beneficial to the community at large and not merely to a particular individual."
15. In Shī'a interpretation, obedience to "God and the Messenger" also involves obedience to the imams.
16. Fuṣṣilat 41:34. The principle of "repelling [evil] by that which is better," *idfa billati hiya ahsan*, expresses the Islamic belief that good deeds have the capacity to erase bad deeds and can be applied even to limit the application of just retaliation (*qiṣāṣ*), albeit the latter already has built into

- it the limitation of proportionality as compared with the pre-Islamic blood feud.
17. Kamali, *Principles of Islamic Jurisprudence*, 245, translates *istiḥṣān* as “equity in Islamic law” but notes a distinction between this and Western conceptions of equity based on natural law: “*Istiḥṣān* . . . is an integral part of the Shari‘a, and differs with equity in that the latter recognises a natural law apart from, and superior to, positive law.”
  18. al-Anbiyā’ 21:47; al-A’rāf 7:8–9. Al-Muṭaffifin 83:1–3 itself leads immediately to a mention of “the Day.”
  19. “Instituted,” *tassō* (1b); “resist,” *antitassō* (2a); “appointment,” *diatagē* (2a).
  20. *Diakonos* is unlikely to have any technical Christian meaning here, and Ernst Käsemann shows that throughout this passage Paul is using the “vocabulary of Hellenistic administration.” Käsemann, *Commentary on Romans*, trans. G. W. Bromiley (London: SCM, 1980), 353.
  21. Mark 12:17, and parallels—the same verb *apodidōmi* occurs in both the Gospels and the Epistle.
  22. *Phobos* and *timē* in the New Testament are generally reserved for God.
  23. Acts 16:37, 22:25–28, though against this must be set Philippians 3:20: “our citizenship is in heaven.” *Purōsis*—the same word as in Revelation 18 for divine punishment of the enemies of God’s people.
  24. Even in Revelation 18, the resistance to the state enjoined for humans is passive—though it correlates with an active opposition to Rome on the part of God.
  25. Cf. Jeremiah 51:45, where the prophet in God’s name summons his people out of Babylon.
  26. Other aḥādīth are referred to as ḥādīth *nabawī*, utterances of the Prophet himself.
  27. al-Tirmidhī, *Īmān*, 59.
  28. Muḥammad Fu‘ād ‘Abd al-Bāqī, *al-Muḥjam al-Mufahras li-alfāz al-Qur‘ān al-Karīm* (Cairo: Dar al-Kutub al-Miṣriyya, 1939), 234, occurrences of the root *gh-f-r*, contrasted with 28, for ‘*d-l*. The ḥādīth literature also suggests a major disparity: A. J. Wensinck and J. P. Mensing, *Concordance et indices de la tradition musulmane* (Leiden: E. J. Brill, 1936–88), 4:528–40 (*gh-f-r*); 4:151–55 (‘*d-l*). Despite the crudity of this statistical exercise, the discrepancy is suggestive.
  29. al-Bukhārī, *Tawḥīd*, 13; Muslim, *Tawba*, 14.
  30. Cf. the pagan tribesman’s cry: “I am of Ghaziyya; if she be in error, then I will err; And if Ghaziyya is guided aright, I go right with her!” Toshihiko Izutsu, *Ethico-Religious Concepts in the Qur‘ān* (Montreal: McGill-Queens University Press, 1966), 55. This is precisely the “my country right or wrong” of twentieth-century *jāhiliyya*. For Arabian tribalism, see further *ibid.*, 55–72; M. M. Bravmann, *The Spiritual Background of Early Islam: Studies in Ancient Arab Concepts* (Leiden: E. J. Brill, 1972), 67.

31. al-Bukhārī, *Ṣulḥ*, 11.
32. al-Bukhārī, *Aḥkām*, 6; Muslim, *Imāra*, 13.
33. Yaḥyā ibn Sharaf al-Nawawī, *al-Minhāj fī sharḥ Ṣaḥīḥ Muslim ibn al-Ḥajjāj* (Cairo: al-Maṭbaʿa al-Miṣriyya, n.d.), 12:207.
34. Ḥadīth *qudsī* narrated by al-Bukhārī, *Aḥkām*, 6; Muslim, *Imāra*, 13.
35. For this genre, see William A. Graham, *Divine Word and Prophetic Word in Early Islam* (The Hague: Mouton, 1977).
36. al-Ghazālī, *Disciplining the Soul*, trans. T. J. Winter (Cambridge: Islamic Texts Society, 1995), 68.
37. Abū Dāʿūd, *Witr*, 32.
38. Étienne Trocmé, “L’expulsion des marchands du Temple,” in *New Testament Studies* 15 (1968): 1–17, proposes this as evidence that Jesus had active Zealot connections.
39. Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore: Johns Hopkins University Press, 1955), 135–36.
40. Shabbir Akhtar, *The Final Imperative: An Islamic Theology of Liberation* (London: Bellew, 1991), 45.
41. Cf. Ahmet Davutoğlu, *Alternative Paradigms: The Impact of Islamic and Western Weltanschauungs on Political Theory* (Lanham, MD: University Press of America, 1994), 102: “The necessity of human cooperation has been explained by Muslim thinkers on the basis of the virtue of love rather than the natural feeling of competition as the basic psychological stimulus.”
42. Muslim, *Imāra*, 40.
43. Abu’l-Yusr Muḥammad al-Pazdawī, *Uṣūl al-Dīn*, ed. Hans Lins (Cairo: Dār Ihyā’ al-Kutub al-ʿArabiyya, 1383/1963), 190–91.
44. For medieval Islamic separations of religious and political institutions, see Ilkay Sunar, “Civil Society and Islam,” in *Civil Society, Democracy and the Muslim World*, ed. Elisabether Özdalga and Sune Persson (Istanbul: Swedish Research Institute, 1997), 14–15. A few exceptions (usually Sufis) to this rule nonetheless bear mentioning. Perhaps the clearest example is Qāḍī Burhān al-Dīn of Sivas (d. 1398), a religious scholar who by a series of promotions in the state’s administration became prince of a sizable territory. Vehbi Cem Aşkun, *Kadi Burhanettin: Sivas sultani* (Eskiflehir: Akdeniz Matbaai, 1964); William Chittick, “Sultan Burhān al-dīn’s Sufi Correspondence,” *Wiener Zeitschrift für die Kunde des Morgenlandes* 73 (1981): 33–45. Other examples would include the Emir ‘Abd al-Qādir of Algeria and ‘Uthmān dan Fodio in Hausaland.
45. The case is made, for instance, by John Gray, *Al-Qaeda and What It Means to Be Modern* (London: Faber, 2003); also L. Carl Brown, *Religion and State: The Muslim Approach to Politics* (New York: Columbia University Press, 2000), 41: “The political ideology advanced by Ayatollah Khomeini and the political reality of a government actually led by mullahs, represents a sharp break with tradition.”

46. Bayhaqī, *Dalā'il al-nubuwwa*, cited in Samīra al-Zāyid, *al-Jāmi' fi al-sīra al-nabawīyya* (n.p.: al-Maṭba'a al-'Ilmiyya, n.d.), 3:465.
47. South Africa's policy was, significantly, largely designed by the country's justice minister, the Muslim jurist Dullah Omar.
48. al-Zāyid, *al-Jāmi' fi al-sīra al-nabawīyya*, 3:464.
49. Ibn Hishām, *Sīrat Rasūl Allāh* (Cairo: Dār al-Fikr, 1980), 2:1257–58. As is so often the case, the parallel with the Jerusalem sanctuary, which was created “before the world,” is striking. Geza Vermes, *Jesus the Jew: A Historian's Reading of the Gospels*, new ed. (London: SCM Press, 2001), 117.
50. 'Abd al-Karīm Tattan and Kaylani, *'Awn al-murīd li-sharḥ Jawharat al-tawḥīd* (Damascus: Dār al-Bashā'ir, 1415/1994), 2:1125.
51. al-Ghazālī, *The Remembrance of Death and the Afterlife*, trans. T. J. Winter (Cambridge: Islamic Texts Society, 1989), 210–16.
52. al-Anfāl 8:1; ḥadīth from al-Ḥākim al-Nisābūrī, *al-Mustadrak 'alā al-ṣaḥīḥayn* (Hyderabad: Dā'irat al-Ma'ārif al-'Uthmāniyye, 1915), 4:576.
53. al-Ghazālī, *Remembrance of Death*, 200; for the principle of *radd al-mazālim*, see 198–205.