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The Islamic Law of War: Justifications and Regulations

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The book under review attempts to “examine the justifications for and the regulations of the use of force under Islamic law in both international and domestic armed conflicts” (p. 4). It consists of an introduction, five chapters, and a conclusion. Based on the Muslim classical and contemporary literature juxtaposing against the Western sources, it adopts a comparative approach to reach its conclusion.

Chapter one examines the wars that took place during the Prophet’s lifetime, and that are recorded in the early *Sirah* literature. Al-Dawoody observes that the failure of Western scholarship to recognize and understand *Ghazwat* and *Siyar* of the Prophet as offensive attacks is misleading and distorts the tradition of war in Islam. He maintains and shows that the meaning of *Ghazwat* denotes all the Prophet’s travels and does not necessarily mean a raid, fighting or battle as Western scholars are confused it with its pre-Islamic meaning (pp. 22-23).

Chapter two attempts to explore the Qur’anic texts and their ways in which the Qur’an justifies warfare. Al-Dawoody concedes that there is a “full contradictory readings on the context of the incidents of war” (p. 45) in the Muslim and Western literature. After examining all the relevant Qur’anic verses and the views of some modern Muslim scholars such as Rashid Rida, Yusuf al-Qardawi, Syed Qutb, and Maulana Maududi, he maintains that the so-called sword verses (9:5; 9:29)—which the Western scholars often accused the Qur’ān calls for holy war against non-Muslims—are misquoted without discussing the facts leading to the fighting (p. 65). Although, he admits that Qutb and Maududi advocated a revolutionary theory of Jihād calling for continuous struggle for the implementation of Islamic principles. However, he believes that the Qur’anic justification (*casus belli*) of war is aggression, persecution (*fitnah*) irrespective of the oppressor’s religion. (p. 69).

Chapter three examines the justifications for war and Islamic attitudes towards non-Muslims in the classical Islamic juridical theory of international law and modern Islamic writings on the issue. Al-Dawoody observes that the major “common error in Western scholarship in the area of Islamic international law is the confusion between *Sharī’ah* and *fiqh*” (p. 71). For Al-Dawoody, *Sharī’ah* is a permanent divine law while as *fiqh* represents individual interpretations of jurists, exegetics conditioned in particular historical and socio-political atmosphere. This crucial mistake turns these individual interpretations of a particular circumstance into “an allegedly sacred and unchangeable *Sharī’ah*”, the divine law (p. 73).

Chapter four discusses the regulations governing war in international armed conflicts under Islamic law. Refuting the grave allegations of the dominant Western scholarship about Jihād, eight major issues concerning the conduct of war in Islam that Islamic jurists have mainly focused that, according to the author, are “relevant to contemporary issues of world security” (p. 110). The issues are Noncombatant Immunity; Human Shield; Night Attack; Mutilation; Weapons; Property Destruction;



Quarter and Safe Conduct; and Prisoners of War. Quoting Roger C. Algase that the Islamic law of war “strikes a balance between necessity and respect for human life in manner which gives a higher priority to saving the lives of non-combatants than does modern international law” (pp. 109-110).

Chapter five discusses internal/domestic armed conflicts/hostilities and terrorism; and the justifications and regulations for the use of force in these conflicts in Islamic law. This chapter is interesting. Al-Dawoody picks two important conflicts discussed under Islamic rulings. These are *bughāh* (rebellion), and *hirābah* (bandits, robbers etc.). Except under a few conditions, the classic Muslim Jurists strongly prohibited rebellion against the head of state/ruler in order to prevent political instability and bloodbath of Muslims. He further observes that Islamic law provides considerable degree of tolerance dealing with its internal opponents (p. 157); thus preventing a potential civil conflict at par with the “current international approach to resolving civil conflicts through negotiations and reconciliation” (p. 162). Coming to *hirābah* which exemplifies a group of citizens attacking, intimidating, robbing, killing or terrorizing innocent civilians of the Islamic state. The nature of the crime of *hirābah* makes its punishment severest in Islamic (based on the Qur’anic verses 5:33-34) because it constitutes not only an aggression against the individual victims, but also an attack on the security, peace, and economy of society as a whole”. (p. 182). While discussing the contemporary terrorism, he expresses displeasure on the way terrorism is being studied in the West, let alone the definition of “terrorism”. Al-Dawoody observes, “to determine whether such terrorist activities are Islamically justifiable by judging them according to Islamic law itself and not merely accepting at face value the terrorists’ justification for their acts as Islamic” (p. 189). The term “Islamic terrorism” thus stands a misnomer. Al-Dawoody believes that the Islamic law of war would make enormous contribution toward international peace and security in the modern world.

Said that, there are some shortcomings that can be levelled against the book. First, the ḥadith literature which consists a wealth of traditions on the Jihād concept, has not been given its due place in the book. In the first three chapters, perhaps only two references to ḥadith (pp. 79, 80) are found; otherwise, Al-Dawoody’s discussion towards his conclusion would become complex. Secondly, the contradictory treatment with regard to Muslim classical jurists’ interpretations and their understandings is perplexing. At some places, he undermines their authority (see, for example, pp. 44, 73, 121, 141, 143), while at other instances, he is not behind to give them due credibility (see, for example, pp. 82, 202). Thirdly, while discussing abrogation in the Qur’an, he superficially engages with 9:5 verse, which is important while dealing with the Jihād concept. Based on three scholars’ views, the author’s stand that the verse 9:5 is abrogated by the verse 47:4 (p. 65), is surprising because he first rejects the abrogation of other verses by the same 9:5 verse. Finally, the title of the book does not seem appropriate; it should have been *The Muslim Law of War*, for the author does not seem to have properly defended the “Islamic” and as his arguments are also based on the same classical jurists (Muslims) he fails to acknowledge their interpretations are Islam in the strict sense of the word. Apart from these limitations, Al-Dawoody deserves appreciation for bringing such a timely book, incisively presented, simple to understand, and a must read for all those concerned to understand the Muslim concept of Jihād. It forms a formidable



contribution to its study and one, which undergraduate, graduate and research students alike, will find engaging.

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