

HOLY WAR IN ISLAM AND CHRISTENDOM

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A RECENT book about the Islamic law of war and peace suggests comparisons with Christian law which have interesting implications.¹ In this comparative field the plough has so far scratched only the surface. Among the more obvious questions provoked is this: does Christian law derive in this matter from Islamic law, or is the character of holy war always in all religions necessarily similar? Certainly such a book as this reminds us that the similarities between the Christian Crusade and the Islamic holy war—*jihād*—are more apparent than the differences. It also reminds us that certain general principles must be relevant to the question in any religion. One particular conclusion to which it seems to lead us is that any just war is a holy war. A war is either wrong, or a Crusade; the cause that is proportionate to the evils of war must be a great one indeed and one that claims our whole devotion. I am not, of course, concerned with the question whether there can be a just war at the present day; I only point out some alternatives.

War—struggle, aggression—is a condition of life, whether spiritual or material. Some people have been so unreasonable as to jibe at the combative character of pacifists. It is obvious enough that it is not war, but certain kinds of physical war, that all Christians abhor and some renounce. The holy war against evil angels, the struggle to live righteously, are as really warfare as the war of bombs. Islamic doctrine is relevant here. For Muslims the essence of the spiritual life is the struggle between belief and unbelief; Professor Khadduri stresses the Muslim use of the term *jihād*, which is the war against unbelief, in a much wider context than that of physical warfare. He quotes, for example, ibn Hazm, Averroes and Buhuti for the analysis of *jihād* in which the *jihād* of the sword takes the last place; first comes the *jihād* of the heart, which is the combat with the Devil, then that of the tongue and that of the hands, 'mainly fulfilled in supporting the right and correcting the wrong'. With such authorities cited, we cannot take it for granted that this is an 'enlightened' or 'modernist'

¹ *War and Peace in the Law of Islam*. By Majid Khadduri. (The Johns Hopkins Press, Baltimore, 1955. London, Oxford University Press, 45s. in the United Kingdom.)

view only. The parallel here is not only between this doctrine and the Christian teaching of 'spiritual combat'; it extends to the colloquial usage of 'Crusade' in the sense of a public good work: there is the Crusade of Rescue, for example, and among Protestants there is the Crusader movement; there is even an 'Empire Crusader' (in chains) on the front page of the *Daily Express*. The point is clear enough. However debased the term may sometimes be, a wide usage which applies it to struggles other than those against the alien infidel is not necessarily a debasement.

Professor Khadduri quotes ibn Khaldun, the first social philosopher of war, as distinguishing four kinds of warfare—tribal war, primitive feuds and raids, *jihād* against unbelievers, and wars against rebels and dissenters; and as condemning the first two, approving the last two as just ('*adl*'). The fourth, like the third, was *jihād*. Christian parallels are very close indeed. The Islamic condemnation of war that is not holy, i.e., between believers and for no adequate reason, is close to that Christian effort, from the time of the truce of God to modern days, to moderate and to stop wars between Christian nations.² Professor Khadduri distinguishes forms of *jihād*, according to Muslim jurists, against both believers and unbelievers. The enemy may be the polytheists (these were the enemy chiefly envisaged by the Qur'an and by the Prophet); or apostates; or *baghat*—'dissenters'—in effect, heretics or schismatics who reject the warnings of the imam, when, as head at once of religion and of the State, he requires them to conform to orthodoxy; or even deserters or highwaymen (who may be considered either as *baghat* or as ordinary criminals); or, finally, the 'People of the Book' Christians, Jews and also Zoroastrians. These enemies are very similar to those that Christian law and practice envisage: pagans, apostates, heretics, schismatics and (Muslim) infidels. Crusade, according to Humbert of Romans, combined the two swords borne by the Church, that against heretics and that against rebels, since Islam destroyed the soul like the former, and the body like the latter.³ Soon, wars against rebels and heretics were themselves kinds of Crusade; once the notion was accepted at all in the medieval West, its meaning began rapidly to extend to any war

² Cf. J. Eppstein, *Catholic Tradition and the Law of Nations*, London, 1935.

³ *Tractatus de praedicatione S. Crucis* and *Opusculum Tripartitum*. (No modern editions.)

against an apparent enemy of the Church. Crusade against the Muslim infidel was supplemented by Crusade against the Albigensian heretic, and, very quickly, by Crusade against politicians, such as the Emperor Frederick II or Peter III of Aragon, who opposed papal policies. In the definition of Crusade, the parallel of Christian with Islamic experience is very close indeed.

The total conception of *dār al-Islām*, the land ('abode') of Islam, contrasted with *dār al-ḥarb*, the land of war, is parallel to the concept of Christendom as a social and political entity, but there were differences.⁴ The *jihād* was not wholly aggressive; in the *ribat* it had its defensive aspect. Christendom, however, regarded the Crusade as essentially defensive, the recovery of long lost property. These attitudes are similar but not the same. There is no real Christian parallel to the *dār al-ḥarb*, the abode of war, considered in itself. Even armed Crusaders would point out that in contrast to Islam the religion of Christ is peaceable. At their worst, we recall, they had massacred men and women in what they believed to be the Temple of the Lord till the blood flowed as high as their horses' knees; yet it was a commonplace among them to contrast the preaching of the apostles with the armed force which the Prophet and the early caliphs employed. This was not the hypocrisy it sometimes seems; but Christians often forgot that Islam constantly sought the peaceful conversion or submission of unbelievers, and spread by preaching as well as by force; and that they themselves, outside their wars with Islam, prosecuted the conversion of unbelievers, as the existence of the Teutonic Knights shows, by a process almost indistinguishable from the classical *jihād*.

In detail, the law of *jihād* resembles that of the *bellum justum* often, but not always. Islamic law defines closely who may wage *jihād*: he must be a believer, mature, sane, male, able-bodied, economically independent; must have parental permission, must have a good intention, must obey certain rules of waging war. Except for the last two there is no very obvious parallel in the Christian law of war; the list suggests rather the requirements of a priesthood than those of an army. Resemblances are more remarkable. St Thomas's three conditions of a just war, due authority, just cause, good intention,⁵ are all present in the law

⁴ Cf. D. Hay, *Europe, the Emergence of an Idea*, Edinburgh, 1957

⁵ *Summa Theol.* II-II, 40.

of *jihād*; the third, as we have just seen, above; the second, by hypothesis; and the first, because *jihād* must be declared by the imam or his delegated agent. Humbert of Romans, with a limited, but within its limits an often accurate, knowledge of Islam, links some Christian opinions about war generally with the particular situation of Crusade. Crusade is *bellum justissimum*, the just war *par excellence*: it attacks, not the innocent, but a 'nation' *summa culpabilis*; it defends no mere material right, but the cause of faith itself; it is fought, not just by due authority, but by the divine authority itself. These three justifications beg each a major question. Can there be no innocents among infidels or among an unjust enemy? Does it follow that what suits the defence of material right suits that of faith? Is not all authority, so far as just, divine? These faults in Humbert's argument seem to betray sources in Islamic doctrine, where, however, similar propositions are consistent with basic beliefs. *Jihād* attacks an entire 'nation' because it is concerned with the spread of belief, and not with guilt or innocence; it is concerned solely with the promotion of faith, and not at all with that of material right; the sole authority is that of the imam, at once secular and divine. It looks very much as though Humbert was adapting Christian theory to a reflection of the doctrine of *jihād*.

There are other points of resemblance. The Islamic theology of acts prohibited in *jihād* partly anticipates Vitoria's theology of the *modus debitus*.⁶ Another case is that of the principle of double effect; thus, causing the death of believers, normally a serious offence, is permitted when it is a secondary result of *jihād* hostilities. Again, the prohibition of the export of war material to unbelievers is very like the series of decrees of Popes and Councils which forbade trade with Islam *in dispendium Terrae Sanctae*.⁷

The treatment of prisoners by Islam has been traditionally the subject of Christian criticism. Islamic law permitted, although it discouraged, the execution of prisoners (who must, by hypothesis, be people who had already been given the chance to submit without fighting); or they might be ransomed, or exchanged, or enslaved. Medieval Christian practice also allowed all of these, although public opinion disapproved of the execution of prisoners

⁶ *Relectiones Theologicae (de jure belli)*.

⁷ Cf. W. Heyd, *Histoire du Commerce du Levant*, Leipzig, 1885.

who were not rebels or infidels, which, however, is what all prisoners taken in *jihād* were, by definition. Muslim practice was sometimes generous; we still admire the magnanimity of Salāh ad-Din in remitting the ransoms of poor prisoners. What medieval Christianity most strongly objected to in Islamic practice was the enslavement of prisoners, particularly in the case of women, because this involved the possibility of concubinage. There certainly seems to have been a great loss of faith among Christian slaves, as opposed to *dhimmīs* (tolerated minorities), although we need not take too literally Ricoldo's repeated assertion that enslaved nuns were made to become the mothers of the most fanatical enemies of the Christian Church.⁸ Christians had sometimes reason, indeed, to welcome the presence of their co-religionists in the households of Muslim rulers. There is nothing parallel to concubinage, of course, in the law governing the Christian treatment of Muslim prisoners, although these were sometimes enslaved. Whether there was illegal concubinage in practice is not a thing now possible to demonstrate. The two religions reacted similarly to the imprisonment of their own people; the ransoming of captives was an important duty for Muslims, as it was an important work of mercy for Christians.

When we come to consider the law of peace, it is interesting to compare the treatment of Muslims living in Christian territory with that of Christians within Islam. Professor Khadduri's chapter on the status of the *dhimmīs* is a useful one. (The *dhimmīs* are the Scriptuaries, 'People of the Book', who expressly accept the status of 'second-class citizens' within *dār al-Islām*.) In some ways their position was superior to that of Muslims in Christendom, which was not guaranteed by an ancient, universal and divine law. The *dhimmīs* were entitled to protection by the Islamic state, but paid a special tax and did not have the same rights as Muslims (for example, cases involving Christians were taken before Muslim, never before Christian courts, and Christians were not accepted as witnesses against Muslims). In matters of religion and personal status they had self-government. The position of Muslims in Christendom seems to have approximated to this position, except that they were not given recognition as a whole community. Details of disabilities are similar: church bells might not be rung loudly in Islamic territory, and Christian Councils

⁸ *Epistolae V de commentariae de perditione Acconis*.

forbade the call to prayer as offensive to Christian ears. With considerable flexibility, Islamic law also protected the *musta'min*, the foreigner, a European and Christian merchant, for example, temporarily resident; without this protection he would, as *ḥarbī*, not *dhimmī*, have been the object of *jihād*. In Christendom the parallel case was a matter for the prince to regulate, although medieval Councils showed an increasing interest in breaking off all friendly intercourse. Ultimately it was Christendom that proved itself the less tolerant. At an early stage Islamic communities in Italy and Spain were compelled to listen to Christian missionaries. On the whole, despite some resettlement for political reasons, these communities do not seem at first to have been broken up by their Christian conquerors, as Muslims immediately broke up any non-Muslim community that resisted *jihād*. This toleration did not last, and in fact no Muslim communities have survived in Europe (outside the late Ottoman Empire), while the Eastern Christians, the former *dhimmīs*, flourish to this day within Islam. On both sides the basic requirement was that the tolerated minority should show respect for the accepted religion. The Christian movement to seek martyrdom by reviling Muhammad publicly in Islamic countries never received the formal endorsement of the Church and came to nothing.

How far can we say that Christian ideas derive, directly or indirectly, from Islamic ideas which they resemble? The influence cannot have been the other way, because the law of *jihād* is much earlier than Christian canons of holy war. It is at least equally probable, and in some cases more probable, that the similarity sprang from a growing similarity of experience. In the thirteenth century of our era, for example, the social and historical experience of Christendom and that of Islam were sufficiently alike for it to be natural that the laws of the two should approximate more than before or since. In contrast, modern developments in Islamic law often arise from divergent experience; the legal opinion that a country where Islamic law has some recognition remains *dār al-Islām*, even though it be under *ḥarbī* rule, came out of the special circumstances of British India. Yet, though details differ, the secularization of law in Islamic countries results from the same pressures as have had comparable results throughout the world. The present is nowhere an age of canon law.

There is one case where we must particularly suspect direct Islamic influence on Christian attitudes. Christians have often thought the promise of Paradise to Muslims who die fighting in *jihād* to be typical of Islam, and of the worst in Islam. Yet it is striking how nearly medieval Christian practice shared this notion. There was often a jihadistic attitude among active Crusaders, particularly in less theological circles. Readers of Joinville will remember the Bishop of Soissons who, wishing rather to be with God than return to his native land, spurred against the infidel enemy and, as he intended, was killed. An even more familiar source, the Song of Roland, refers in one line to those who die in battle against Islam as martyrs.⁹ Sir Steven Runciman has drawn attention to ninth-century pontificates, where, however, the *jihād*-like phrases of the Popes fall short of any clear definition of *martyrdom* in battle.¹⁰ Their language expresses confidence that those who die fighting for the faith will receive an eternal reward, but this is seen as the natural result to expect from any death that occurs during the actual execution of some good work. This is distinct from martyrdom. Urban, in the versions of his Crusade sermon, clearly had no doctrine of martyrdom in mind when he set the Crusades in motion. Yet even when doctrine is carefully defined on both sides, the difference is not great. On the Christian side, to say that battle in holy war is a good work and a means of grace (while still requiring the normal means of grace, confession, communion, which in the case of true martyrdom would be superfluous, however desirable), is not very far from the Islamic attitude that death in battle earns Heaven, subject to a number of conditions, relating to behaviour, and including good intention. If, moreover, we object that ordinary soldiers must often have failed to observe pure doctrine, that equally will apply to both sides.

Professor Khadduri is not interested in problems of martyrdom, which in fact raise important moral and religious issues of no direct concern to the lawyer. Indeed, in the narrowest sense, the promise of Paradise to the martyr—‘witness’, *shahīd*—may figure less prominently in the Islamic imagination than in the Christian picture of Islam. The wider use of the idea of the *shahīd* is more stimulating. Many early Islamic ideas of a martyr perhaps derive from Christianity, but extensions of the idea, characteristic of

⁹ Joinville, LXXVII. Roland, 89.

¹⁰ *History of the Crusades*, vol. i, p. 84.

Islam, made it possible to think of almost anyone who died a violent death as a martyr, and even of one who died fighting his sins, as a martyr in the *jihād* against evil.¹¹ This was not always the deification of a passive death, as some manifestations of popular religion reveal. In Ja fari Shi ah Islam, for example, a large proportion of cheap reproductions in use by the devout today illustrate the battle prowess of the martyred imams, and in this way a form of religion which is highly emotional and is obsessed by the sufferings of martyrs, closely associates the suffering with aggressive warfare. With these Islamic attitudes we may compare the modern sentiment which among Western nations invests those who have died in the great conscript wars with a kind of sanctity; a sentiment which certainly extends to apparently atheist Russians. Future wars seem to hold a greater opportunity for passive death even than past wars have. When we think about the victims of pattern and of atomic bombing in the last war, and about possible future victims of nuclear warfare, Muslims and Christians alike, we shall wish the innocent who must die to be a *witness* to the truth.

If there is scope for study of Islamic influences on Christianity, in the field of holy war, and of outside influences upon both, what matters most is that in many things the two religions share a common attitude. When we say that justice, righteousness and religion are one and inseparable in all warfare, physical or spiritual, and that a just war (if there be such a thing) must be holy, these are the conclusions of Islam and Christianity alike. It is usual to contrast the Christian idea of natural law with the revealed character of Islamic law. Yet even here Professor Khadduri's book may make us reflect that the differences are less than we thought. Islamic law considers itself of 'permanent validity, regardless of space and time', and, although it intends benefit to the community before the individual, it requires to be observed by the individual 'with sincerity and good faith'. Both Christians and Muslims believe that the divine law is universal and eternal, unalterable by man, whether they suppose it to be known by both reason and revelation, or by revelation alone. We lack proportion if we forget that in this we share with Islam more than divides us.

This book gives rise to many profitable reflections, of which

¹¹ Cf. W. Bjorkman, in *Encyclopaedia of Islam*, 'Shahīd'.

the present writer's may be the least important. It is permissible to say that it is not more than a straightforward account, intended to be an informative work of reference and explanation, not a revolutionary re-interpretation. In what it intends, it succeeds, and an apologetic tendency is only occasionally, and only just, perceptible. It is clearly written; its meaning is always plain; it is readable as well as factual. If it is rarely speculative, it contains some interesting essays, including a clear account of the four great schools of law, and a suggestive 'epilogue'. Particularly satisfactory is the care with which the law on particular points is traced from its beginning, from the *Qur'ān* and the practice of the Prophet and his Companions; for example, in the sections on the *dhimmis*, on treaties, on arbitration and on diplomacy. Perhaps its greatest value for Christians is that it is by a Muslim, who sees the law of Islam from within. This the greatest Christian or Jewish scholar cannot do. If we compare it with any standard account by a Christian we see how it appreciates, rather than attacks, the law it describes; and yet avoids being disagreeably partisan. This is a valuable book, a fruit worthy of the welcome given to Islamic scholars in the United States today.
