

the
**CONCEPT OF
JUSTICE
IN ISLAM**

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The Concept of Justice in Islam

A broad definition of justice, of course, is to render to everyone his due. Islam, however, proceeds further in its definition of justice. It lays down that to maintain a proper standard of justice it is necessary that recompense of good should in no case be less than what a person has earned, and that, on the other hand, the penalty for a wrong should not exceed the wrong or transgression committed. A contravention of either of these principles would amount to injustice.

It has sometimes been suggested that the first part of this concept, namely that reward or recompense should not fall short of that which has been earned, is just so far as it goes, but that a strict concept of justice demands that reward or recompense should not be in excess of what may have been earned. Islam does not accept this limitation. It proceeds upon the principle that good multiplies itself and has the quality of prevailing against, or of driving away, evil and that, therefore, the beneficence put in motion by good has no limit. Consequently, there is no reason to put a limit upon the reward or recompense of good.

Surely, good works drive away evil works. This is a reminder for those who would remember.

(The Holy Quran XI. 115)

Summary of an address delivered by Sir Muhammed Zafrullah Khan, Judge of the International Court of Justice, to the Seminar on Islamic Studies at the Institute of Islamic Studies, McGill University, Montreal, Canada, on November 4, 1954. *Editor.*

The Quran has at various places reiterated this principle.

And the recompense of an injury is a penalty the like thereof; but whoso forgives and his act brings about reformation, his reward is with God. Surely, He loves not the wrongdoers. (XLII. 41)

This verse lays down the principle that the penalty in respect of a wrong or injury should be in proportion thereto, but that where forgiveness would lead to reformation, the injury should be forgiven or the penalty may be reduced. A Contravention of either of these principles would amount to wrong doing. A penalty severer than that demanded by the wrong or injury done, or, forgiveness or lenience in a case where the circumstances do not indicate that forgiveness might result in improvement or reformation would both be wrong.

Again:

Surely, God wrongs not anyone even by the weight of an atom. And if there be a good deed, He multiplies it and gives from Himself a great reward. (IV. 41)

The same principle is repeated in various contexts.

For instance:

For those who do good deeds, there shall be the best reward and yet more blessings. And neither darkness nor ignominy shall cover their faces. (X. 27)

And as for those who do evil deeds, the punishment of an evil shall be the like thereof, and ignominy shall cover them. (X. 28)

It may be pointed out that the safeguarding against darkness and

ignominy in one case and being subjected to ignominy in the other is, in the strict sense, not a part of the reward or the penalty, but is a consequence which flows from the nature of the act in each case. It is a quality of good and evil respectively.

Whoso does a good deed shall have ten times as much; but he who does an evil deed, shall have only a like reward; and they shall not be wronged. (VI. 161)

Whoso does evil will be requited only with the like of it; but whoso does good, whether male or female, and is a believer—these will enter the Garden; they will be provided therein without measure. (XL. 41)

It may be explained that as the object of Islam is to bring about complete integration and planned development between all faculties and in all spheres, the sanctions in respect of all action and conduct are not only material but also moral and spiritual. In fact it is interesting to note in connection with the controversy what is the province of religion and what is the province of law and politics, or, in other words, the controversy with regard to a secular state and a religious state, that Islam does not make that distinction at all. Islam is a way of life and is a code of laws regulating all aspects of human life. From that point of view it is, if one may so express it, the most secular of all religions. It is common knowledge that there is no priesthood or church hierarchy in Islam. Consequently, there are no sacraments nor any ceremonial which can be performed only by or through an ordained priesthood.

Before Islam, the concept of justice in Arabia was purely patriarchal inside the family and the tribe, and between different tribes a rough and ready balancing up through a succession of tribal feuds and vendettas. The administration of justice on the basis of law, rights, duties, and penalties through the machinery of courts and judges was something unfamiliar to the Arabs. Islam not only introduced this

concept but made the settlement of disputes through judicial determination obligatory upon Muslims.

But no, by thy Lord, they are not believers until they make thee judge of all that is in dispute between them and then find not in their hearts any demur concerning that that which thou decidest and submit with full submission.
(IV. 66)

This verse lays down, first, the obligation that disputes must be judicially determined; then the moral duty that once the judicial process has terminated in a final decision, the decision must be accepted without leaving a trace of resentment or demur in the minds of the parties whichever way the decision may have gone, and finally that it should be submitted to and carried out to the full.

Those who are not familiar with the style and idiom of the Quran might be disposed to restrict the operation of this verse to judgements delivered by the Holy Prophet himself. This would not be correct. Very often when the Prophet is addressed directly, the commandment, injunction, or obligation is laid upon all believers, or has a general application. Nor is there any room here for attributing special sanctity to judgements delivered by the Holy Prophet. He has himself been quite clear on the point. He has explained that in determining a dispute he tries to arrive at the truth of the matter on the basis of the presentation of the case by the parties. He may go wrong and award something to a party to which the party is not entitled. Should that happen the party that under the judgement takes or recovers that to which he or she is not entitled is guilty of appropriating wrongfully that which does not belong to him or her.

This verse is thus emphatic in making obligatory the determination of disputes through judicial process and complete submission to the final judgement in not merely carrying it out, but in reconciling

oneself to the judgement in one's mind so that no resentment or sense of privation is left behind.

Judges have been commanded to perform their duties impartially.

Verily, God commands you to make over the trusts to those entitled to them, and that, when you judge between men, you judge with justice. And surely excellent is that with which God admonishes you! God is All-Hearing, All-Seeing. (IV. 59)

The obligation to do justice is absolute and is not subject to any limitation or modification with reference to the parties to a dispute, or with reference to their being Muslims or non-Muslims, or their being in conflict with the Muslims or in alliance with them.

Oh ye who believe! Be steadfast in the cause of God bearing witness in equity; and let not a people's enmity incite you to act otherwise than with justice. Be always just, that is nearer to righteousness. And fear God. Surely God is aware of what you do. (V. 9)

As already observed, Islam is a way of life and is also a code of laws and regulations. As illustrations of the manner in which, and the care with which, the Quran seeks to set up standards of conduct and to preserve and safeguard testimony, attention may be drawn to the following:

O ye who believe! when you borrow one from another for a fixed period, then write it down. And let a scribe write it in your presence faithfully; and no scribe should refuse to write, because God has taught him, so let him write and let him who incurs the liability dictate; and he should fear God, his Lord, and not diminish anything therefrom.

But if the person incurring the liability be of low understanding or be weak or be unable himself to dictate, then let someone who can watch his interest dictate with justice. And call two witnesses from among your men; and if two men be not available, then a man and two women, of such as you like as witnesses, so that if either of the two women should err in memory, then one may remind the other. And the witnesses should not refuse when they are called. And do not feel weary of writing it down, whether it be small or large, along with its appointed time of payment. This is more equitable in the sight of God and makes testimony surer and is more likely to keep you away from doubts; therefore omit not to write except that it be ready merchandise which you give or take from hand to hand, in which case it shall be no sin for you that you write it not.

And have witnesses when you sell one to another; and let no harm be done to the scribe or the witness. And if you do that, then certainly it shall be disobedience on your part. And fear God. And God grants you knowledge and God knows all things well.

And if you be on a journey, and you find not a scribe, then let there be a pledge with possession. And if one of you entrusts another with something, then let him who is entrusted surrender his trust and let him fear God, his Lord. And conceal not testimony; and whoever conceals it, his heart is certainly sinful. And God is well aware of what you do. (II. 283-284)

And:

And approach not the property of the orphan, except in a way which is best, till he attains his maturity. And give full measure and weight with equity. We task not any soul

save according to its capacity. And when you speak, observe justice, even if the concerned person be a relative, and fulfil the covenant of God. That is what he enjoins upon you, that you may remember. (VI. 153)

It will be seen that these two brief passages embody a variety of substantive procedural and evidencial ordinances and rules. All contracts, save in exceptional cases, are required to be reduced to writing. The writing is to be at the dictation of the party assuming or undertaking the obligation and where such a party is not fully competent, at the dictation of his guardian. The scribe and the witnesses are put under obligation to write justly, to come forward to bear witness when required to do so, and to bear true witness.

There are other injunctions with regard to the administration of the property of an orphan and giving full weight and measure. There is particular emphasis on speaking truthfully and justly where the person concerned is a relative. The discharge of these obligations is described as fulfilling the covenant of God. The emphasis on the moral and spiritual sanctions is maintained.

The dignity of the judicial office has always been fully safeguarded in Islam. Complete independence of the judiciary was established at the very beginning. There are recorded instances where the judge adhered to the strictest standards of justice and of the evidence required to establish a fact, even where one of the parties concerned was the Head of the State himself, though, of course, in his private capacity.

It is worth remembering that all this was laid down and was scrupulously observed and acted upon more than thirteen hundred years ago. It is greatly to be regretted that some of the high standards set up in Islam have not been uniformly observed during later periods but the eagerness with which Muslims are anxious to re-establish Islamic values is a reassuring augury with regard to the future.



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