

OBITUARY

Professor Emeritus Dr Majid Khadduri (1908-2007)

Professor Emeritus Majid Khadduri, a descendant of emigrants from the Caucasus and a prolific writer on Middle Eastern politics and international law, died on 25th January 2007, aged 99. He was born on the 27th September 1908 in the northern Iraqi town of Mosul (Arabic Mawṣil), which traditionally produced leaders and energetic scholars.

Khadduri finished his education in an Arabic school in Mosul in 1928 and graduated from the American University of Beirut in 1932. He joined the University of Chicago in 1938, where he gained his Ph.D. in International Law and Political Science. In the early decades of the 20th century the University of Chicago had a great reputation for hiring outstanding Professors of Political Science and International Legal Studies. Khadduri was one of its most eminent students from the Hashimite Kingdom of Iraq. After returning from the USA, from 1939 to 1947 Dr Khadduri worked for the Ministry of Education in Baghdad, which also allowed him to lecture on legal studies at the Higher Teachers' College (which was later renamed the College of Arts (*Kulliyat al-Ādāb*) of the Baghdad University). In 1945 he joined the Iraqi Foreign Ministry delegation to the international conference in San Francisco which drafted the United Nations' Charter.

After returning to Iraq, Khadduri accepted a Visiting Professorship, first at the University of Indiana, and then at the University of Chicago. In 1950 he joined the School of Advanced International Studies (SAIS) at the Washington campus of the Johns Hopkins University. He served as Professor of Middle Eastern Studies from 1950 to 1970; Director of SAIS from 1960 to 1980 and he was recognised as Distinguished Research Professor from 1970 to 1980. He helped to found the University of Libya in Tripoli and Benghazi and served as its Dean in 1957. A few years after returning from Libya Dr Majid Khadduri published his research work entitled *Modern Libya: a study in political development* (Johns Hopkins University, Baltimore, 1963). A few years earlier, Dr Majid Khadduri had the distinction of publishing his outstanding translation of Imam Shāfi'ī's *Al-Risāla fī Uṣūl al-Fiqh* (The Johns Hopkins University Press, 1961). This book was so famous that it was reprinted several times by the Islamic Texts Society, Cambridge, UK. Dr Majid Khadduri in his erudite preface to the translation of al-Shāfi'ī's *Al-Risāla fī Uṣūl al-Fiqh* (called *Al-Imām Muḥammad ibn Idrīs al-Shāfi'ī's Al-Risāla fī Uṣūl al-Fiqh – Treatise on the Foundations of Islamic Jurisprudence*, translated with an introduction, notes and appendices) wrote the following paragraphs, which are pertinent today:

Following World War II a revival in the study of Islamic law set in, stemming partly from the rise of several Islamic countries to statehood.

Some of the new states stressed the Islamic creed, and the older states declared Islamic law to be a source of legislation. The most constructive approach to modernizing Islamic law is reflected in the new civil codes, notably in the law of contract and property, which Dr. 'Abd al-Razzaq al-Sanhuri has drafted for Egypt, Syria, Iraq, and Libya. As a result, a growing interest in the study of Islamic jurisprudence has become noticeable in the Muslim world, in an effort to gain a deeper understanding of the nature of legal reform.

The Muslim world today is facing a problem of legislation not unlike that which faced it in the first two centuries of its existence. During that time Islam expanded rapidly and absorbed new elements of culture and tradition. As a result, the Muslim world abounded in legal doctrines, the advocates of each vying for supremacy over the others. It was Shāfi'ī who provided in the ninth century of the Christian era a systematic legal method by which to synthesize the various legal doctrines into a coherent system. A thorough study of that system will explain how legal problems were resolved in the formative period as well as the approach and method of reasoning employed in their solution. It is impossible to understand the implications and the trends in modern Islamic legal reforms without an appreciation of the nature and development of classical Islamic jurisprudence. (Preface, page vi).

In his "Translator's Introduction" Dr Khadduri summed up his thoughts on the Sharī'ah in the following words, which are reproduced here as a tribute to his memory:

Law is a system of social control established for the purpose of maintaining an ordered society among men. Different societies develop different legal systems, but every matured system reveals the ways in which the society from which it sprang endeavors to protect what it honors. Islamic law, the product of Islam's centuries of stored experience, is the embodiment of the Islamic ideal life. It is the framework of Islam itself. For although religion describes what the ideal life should be, the law indicates the right road to follow (indeed the term Sharī'a bears this meaning) in order to arrive at the ideal life. Thus the law of Islam, the Sharī'a, has the character of a religious obligation; at the same time it constitutes a political sanction of religion. As a consequence, the Sharī'a has greater practical importance to Muslims than the creed, and its study is ranked higher than a supererogatory prayer by Shāfi'ī, the founder of a school of law and author of the *Risāla*.

In Islamic legal theory the Sharī'a is derived from a high divine source, embodying God's will and justice. Unlike positive law, it is regarded as the ideal legal order; but, like positive law, it mirrors the character of the society in which it developed. The idealization of the Sharī'a as the perfect legal system was the product of legal speculation which occupied the minds of jurists for generations; but

the one who for the first time laid down a systematic legal reasoning for such an idealization was Muhammad ibn Idris al-Shāfi‘ī (d. 20 January, 820 AD). The impress of his systematic method, which has never been superseded in Islam, has remained permanent. (Introduction, pp. 3-4).

With such clear views on Islamic law, it is not surprising that in 1969 Professor Majid Khadduri founded the Shaybani Society of International Law. He also served as the President of the International Middle East Studies Association (MESA) of America in 1986. From 1980 until his death he was the Distinguished Professor Emeritus at Johns Hopkins University.

A festschrift entitled *Essays in Honour of Majid Khadduri* was presented to him by the Middle East Institute in Washington, D.C. in 1987. I had the privilege of attending this auspicious gathering of academic scholars in the room of His Excellency Ambassador Lucius Battle, the then President of the Middle East Institute in Washington D.C. He autographed the festschrift which I bought and posed for some photographs with me. I was very delighted to meet Dr. M. Khadduri. On this occasion I also met for the first time with Professor Yvonne Yazbeck Haddad, who originated from the former Syrian province of Iskanderun (modern Hatay) and taught at Hartford Seminary. Among Dr Khadduri's many famous books, *The Law of War and Peace in Islam* (which was published by Luzac and Company, Great Russell Street, London, 1941) established his reputation as an international lawyer. This work was recommended for advanced studies in many newly emerging universities in the Muslim world, including Rajshahi University in North Bengal, East Pakistan (now Bangladesh) and others in West Pakistan. A sequel was *The Islamic Conception of Justice* (The Johns Hopkins University Press, 1984).

Professor Khadduri also contributed articles on legal subjects, including "Dustūr" (lit. constitution), "Hudna" (lit. peace agreement) and "Maṣlaḥa" (lit. public interest) to the *Encyclopaedia of Islam* (new edition, Leiden, Paris and London) and his entries for the *Encyclopaedia Britannica* (1973 ed.) include "Pan-Islamism", "Baghdad Pact" and "Jihād". His other contributions to encyclopaedias were "International Law, Islamic" to the *Encyclopaedia of Public International Law* (Amsterdam, 1983), and the article "al-Shāfi‘ī" to the *Encyclopaedia of Religion*.

As a political scientist Khadduri published a number of books on his native Iraq. These include *The Government of Iraq* (Baghdad, 1944), *Independent Iraq: a study in Iraqi politics since 1932* (Oxford University Press, London 1951), *Republican Iraq: a study in Iraqi politics since the revolution of 1958* (Oxford University Press, London, 1969), and *Socialist Iraq: a study in Iraqi politics since the revolution of 1968* (The Middle East Institute, Washington, D.C., 1978); *The Gulf War: the origins and implications of the Iraq-Iran conflict* (Oxford University Press, 1988), and *War in the Gulf, 1990-91: the Iraq-Kuwait conflict and its implications* (co-author, Edmund Ghareeb) (Oxford University Press, 2001).

In total he wrote more than two dozen books on international law and politics in the Middle East. One of his earlier books is *Modern Libya: A study in political development* (1963) in which he discusses the political role of ‘Umar al-Mukhtar (1862-1931) and the diplomatic history of Sayyid Idris al-Sanusi leading to the unification of Cyrenaica and Tripolitania and the proclamation of independence of

Libya from Italian occupation in 1951 (through the intervention of the United Nations Organisation).

A versatile scholar of Middle Eastern studies and an interpreter of international Islamic Law, Khadduri edited *Law in the Middle East*, Vol. 1: Origin and Development of Islamic Law, (co-editor, Herbert Liebesny) (The Middle East Institute, Washington, D.C., 1955). He also authored *The Islamic Law of Nations: Shaybani's Siyar* (Johns Hopkins Press, 1968) and *Major Middle Eastern problems in International Law* (Washington, D.C., 1972). He will be remembered as an amiable and humble person who devoted his life to raising the profile of Middle Eastern nations in the American academic institutions of higher learning.

Assessing his legacy, a modern scholar has paid the following tribute: Khadduri has insisted on applying "reason and intellect to everything he has done and what holds him in high regard was the consistency throughout his life of his moral and intellectual attitudes" (James Piscatori, in *Essays in Honour of Majid Khadduri*).

He is survived by his son, Farid and his daughter, Shirin and three grandchildren. His brother was named Khalid and his sister, Khayriyah. His wife, Majdia Dawaff passed away in 1972. After many years in the USA he became an American citizen in the twilight years of his prolific intellectual life. He is buried near Washington, D.C.

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