

*The Impossible State: Islam, politics and modernity's moral predicament.* By Wael B. Hallaq. [New York: Columbia University Press, 2012. xiv + 256 pp. Hardback £58.50. ISBN: 9780231162562.]

This book argues: “*any* conception of a modern Islamic state is *inherently* self-contradictory” (introduction, xi, all quoted emphases as printed) and such a state is also “an impossibility” (vix). Professor Hallaq dismisses the last two centuries as unworthy models of an Islamic state (chapter 1: “Premises,” p. 2) thereby justifying limiting attention to the first 1200 years of Islam. He brackets out the question of “what type of political rule are Muslims presently adopting or likely to adopt in the future?” (p. 1) as one that “is not integral to our argument and constitutes a separate field of enquiry for another book and decidedly for another author” (p. 1).

However, logically speaking, how can the last two centuries not be integral -- indeed essential -- in assessing whether or not a modern Islamic state is a possibility? It might reasonably be thought necessary to investigate how Muslims in the modern era have thought and are thinking about ‘Islamic governance,’ and how they have attempted or are attempting to fashion anew or to improve the governance under which they (and others) are living. Such in any event is not the project undertaken in this book. Instead the book’s answer to these questions is that the factors rendering the Islamic state a self-contradictory impossibility are entirely independent of Muslims and Islam. It claims that the culpable factor is modernity. Hallaq understands modernity as a development in European thought and history forcefully imposed on the rest of the world. Far from being a critique of Islamism, as might first appear, the book is instead a diagnosis of what ails modernity: “modernity’s moral predicament” (the third and final term in the book’s subtitle). The author evidently takes the view that modernity, which was bad to begin with, is now in crisis. In espousing this view Hallaq places himself in the company of critics of modernity naming political theorists Alasdair MacIntyre, Charles Taylor and Charles Larmore. Criticism of the modern state and of the amoral or immoral modernity that birthed and raised it appear in each chapter. One key to evaluating the book is recognising that the critical edge, the one with teeth, is only applied to (this putatively Western) modernity.

Setting that general observation aside, the remaining paragraphs of this review consider the book’s attempts to reveal the notional Islamic state as an impossible illogicality. Professor Hallaq makes two types of claims in support of this conclusion, here classified as ‘the weaker’ and ‘the stronger’. The weaker claim is that Muslims *cannot* opt for an Islamic state now because doing so would be to move from a better position (under the rule of shari’a pre-dating the modern state) to a worse one. Chapters 3, 4, 5 and 6 make the weaker claim. The stronger claim is that the development of Islam over its first 1200 years render it incompatible with the modern state. Chapters 2 and 7 make the stronger claim.

In the paragraphs that follow, a succinct elaboration of the weaker and the stronger claims precedes a chapter by chapter assessment of the support that Hallaq gives to each claim. To repeat, the weaker claim is essentially that Muslims *cannot* opt for an Islamic state now, because doing so would represent movement from a

better position under the rule of Islam and Islamic law to a worse one -- that lot being shared by citizens of extant states with their regimes of positivistic laws and governments. This claim implies a forced and false choice between the status quo and a past ideal, dismissing without consideration possible third alternatives. Furthermore 'cannot' here denotes not *impossibility* but rather *undesirability*.

Three chapters reduce to this weaker claim. Chapter 3 rightly indicates the flaws inherent in the liberal constitutional doctrine of "Separation of Powers"; it represents as *preferable* the rule of law tradition in Islam. Chapter 4 ("The Legal, the Political, and the Moral") attributes to modern Europe the separation of morality from law and the state. It concludes that "Muslims have very little reason to opt for the modern state's law, when they have enjoyed a legal culture that has insisted for more than twelve centuries on a law paradigmatically structured and fleshed out by an overarching moral source" (p. 89). Chapter 5 ("The Political Subject and Moral Technologies of the Self") asserts that, as compared with Europeans, Muslims lived under "a far more egalitarian and merciful system" (p. 110) which was preferable to that the modern state offers.

Chapter 6 ("Beleaguering Globalization and Moral Economy") rightly observes the encouragement of wealth-seeking and accumulation in Islam (p. 149). Nevertheless Hallaq plausibly opines that it would be difficult for Muslims to combine the moral imperatives of their faith with capitalism, and in particular with the purely profit-seeking modern corporation (p. 154). If -- as Hallaq has committed himself to agreeing -- doing so has not been tried, or if it has been tried he has not taken account of the result (since such an attempt would have occurred in the last, lost two centuries), the beneficial co-existence of Islam and capitalism cannot be deemed an impossibility. Far from it. The partnership is trite Islamic law; partnerships partially meet the challenge, in addition to possessing some advantages over incorporated entities, with respect to corporate governance -- as is now increasingly affirmed, and not by Muslims alone. Be that as it may, however difficult it might be to check large multi-national companies, the modern state is uniquely qualified to police both partnerships and to legislate and adjudicate the conditions under which the corporate veil will be removed. Finally, saying that something is difficult (as running a state -- Islamic or other -- must indubitably be) is also to say that it is not impossible.

The stronger claim, that regarding the incompatibility of Islam with the modern state, may be rephrased as follows: an Islamic state is not possible conceptually because modernity requires things of Islam that Islam has never given. And that it therefore cannot now give. Both chapter 2 ("The Modern State"), and the final chapter, chapter 7 ("The Central Domain of the Moral") are reducible to this claim. Central to the latter chapter is the idea that the subject or subjectivity emerging under shari'a was completely different to that emerging in Europe (p. 135). Each of these two chapters make the rudimentary error of ascribing fixity to a fluid, contingent and dynamic phenomenon.

However it soon becomes apparent that Professor Hallaq does not subscribe to the reasoning that he himself has offered in support of the stronger claim. In the final section of the last chapter (pp. 167-170) the rigid, fixed dichotomy separating Islam, and Western modernity, collapses. Muslims now are portrayed as similar to

the political and moral philosophers MacIntyre, Taylor and Larmore (p. 169) in that they may participate in “subjecting modernity to a restructuring moral critique [which] is the most essential requirement not only for the rise of Islamic governance but also for our material and spiritual survival” (p. 170). The goals of these political theorists and (unnamed) Muslims merge: “[f]or, just as there can be no Islamic governance without such a victory, there will be no victory in the first place without modernity experiencing a moral awakening” (pp. 169-170). Hallaq calls for a dialectic and “a discursive negotiation with – and of – the modern state and its liberal values, *in both East and West*” (p. 168).

The position emerging, then, is that Islamic governance is possible. Indeed it appears to be a virtual necessity in Hallaq’s opinion; as quoted in the previous paragraph, in the event that humanity fails to achieve the conditions precedent to Islamic governance then human beings will be rendered both materially and spiritually non-existent. The reader should pay close attention to the substitution of the term ‘governance’ for the term ‘state’ in the book, and query how well governance might respond to the criticisms the book levels at the modern state. For an intervention that appears at least sympathetic to post-modernism it is certainly a paradox if not an outright contradiction that Hallaq intimates the possibility of what can only be called a universal emancipation: subjectivities (European and Islamic) change, the interrogated state transforms, law becomes substantively moral, humanity escapes the brutality of nationalism, sovereignty, citizenship, capitalism and technocratic governance.

Hallaq should be applauded both for seeking to write a non-technical book accessible to non-specialists and for venturing into what are (for an esteemed Arabist and Islamicist) novel areas of modern moral philosophy. Some examples of where this bravery may, however, have led to error include the adoption of a legal philosophy (positivism) that stops with Kelsen and Austin, ignoring Ronald Dworkin; cleaving to a traditional conception of sovereignty and the state or law as sovereign that has sustained serious damage from a frontal attack (initiated by Eleftheriadis in 2010); emphasizing violence as a source of power or sovereignty (p. 27) is anachronistic. In fact the necessity of using police powers (or military force) betokens underlying weakness: a strong state governs from within – controlling behaviour not by physical coercion but by appealing to and shaping the beliefs and attitudes of its denizens.

Although there is a rigorous clarity to Hallaq’s identification and description of the requisites of the modern state (chapter 2), in his treatments of other key concepts (post-modernity, subjectivity) there is arguably insufficient clarity. The rhetorical flourishes obfuscate. For instance: “The retrieval of Islamic moral resources is therefore as much a modern project as modernity itself. And as a modern project, it is also postmodern to the core. Postmodernity, let us be clear, both assumes and attempts to transcend modernity, but modernity nonetheless” (pp. 13-14). This is an opaque formulation, not a clear one: it is a *non sequitur* to conclude that because something is modern it is therefore post-modern. Saying so also erodes a distinction essential to the book’s project. More substantively on the topic of post-modernity, joint treatments of it and Islam are actually not new -- Akbar S. Ahmed, *Postmodernism and Islam: Predicament and Promise* 2004 is

relevant yet nowhere referenced. The same is true regarding Islam and globalization -- Akbar S. Ahmed (ed) *Islam, Globalization and Postmodernity* (1994).

The corollary of the *impossibility* of the *modern* Islamic state turns out to be the *possibility* of the *post-modern* Islamic state. However the author prefers not to articulate this as anything more than an afterthought -- in the last four pages of the book. As a result of the author's reticence it is in the final analysis anything but clear what post-modern Islamic governance would be. It is undoubtedly a contribution to pose (or even simply to ask again) this question. And it is obvious why Hallaq would rather not seek the answers to this question in contemporary essays to form or consolidate Islamic states. However, if the reader did not already share Professor Hallaq's disdain for modernity, the reader is exceedingly unlikely to find great attraction in the elliptically stated post-modern alternative to it found here; irrespective of whether that post-modern alternative is or is not an Islamic alternative.

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