

Book Reviews

The Fall and Rise of the Islamic State. By Noah Feldman. Princeton and Oxford: Princeton University Press, 2008, pp. 189. ISBN: 978-0-691-12045-4.

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When empires and government systems fall, they hardly resurface. Few people are worried about a resurgence of monarchy or communism. However, the governing system i.e. the Islamic state (also democracy), which “died” in 1924 has regained popularity amongst Muslims. How does one explain this puzzle especially to the Western policy makers who are alarmed by the growing clamour for a return to *sharī‘ah* in the Muslim world? Noah Feldman, Professor of Law at Harvard Law School and an adjunct senior fellow at the Council on Foreign Relations, provides an answer by arguing that misgoverned Muslims yearn for a return to a rule of law, the *sharī‘ah*, “a just legal system, one that administers the law fairly” ensuring justice to all as exemplified during the golden days of Islam. Muslims will be happy to see a Western scholar, a Jew for that matter, praising the *sharī‘ah* and pleading for the radically modified classical Islamic model as the sure way for “meaningful political justice for many Muslims.” Feldman notes that “the alternative may well be worse” (p. 15).

The Fall and Rise of the Islamic State is divided into three parts. Part I deals with the golden age of the Islamic state from the time of the rightly guided caliphs to the Ottoman rule. During this period, everything “went right.” The Islamic states, according to Feldman, were legitimate and just as they followed the *sharī‘ah*. The scholars, the *ulamā’*, were the guardians of the *sharī‘ah* and checked the executive power of the rulers. The scholars did allow rulers to legislate

in administrative and criminal matters, but only if these laws did not contradict the *sharī'ah*.

Part II explains the “decline and fall” of the Islamic state and is attributed to constitutional and legal changes during the Ottoman Empire. The Tanzimat reforms reduced the *sharī'ah* to a civil law code, called the *Mecelle* (Ar. *majallah*). The reforms relegated scholars “to the role of the minor religious functionaries” (p. 8) with the purview of family law as their only “consolation prize.” The scholars were replaced by judges who were not well-versed in Islamic law which itself was replaced by state law emanating from the sovereign. This paved way to unchecked executive power which, according to Feldman, has been replicated throughout the region following the disintegration of the Ottoman Empire. Saudi Arabia, Feldman notes, is an exception where scholars retained their pivotal position but, in the absence of a written constitution, the balance of power relationship between scholars and rulers is often compromised by the distorting effects of the Saudi state’s tremendous oil wealth. Part III deals with the modern era characterised by calls for the reinstatement of the Islamic state. The major thesis of the book is forcefully expressed as follows:

By invoking the Islamic state governed by the Shari’a, the Islamists tap into the nostalgic and in some ways accurate idea that the classical Islamic state was just – or at least much more just than the autocratic states that the modern era has brought to most majority-Muslim countries. Calling for a return to Islamic law conjures the possibility of repairing the political corruption of the past century and returning to a pure order in which the Shari’a governed social and governmental relations (p. 112-113).

To Feldman, the “call for an Islamic state is therefore first and foremost a call for law—for a legal state that would be justified by law and governed through it” (p. 9).

However, Feldman believes that the Islamic state desired by leaders of contemporary Islamic movements departs radically from the one that prevailed during the golden days of Islam. The Islamic movements are run and directed by non-clerics marginalising religious scholars and disregarding the science built around Islamic jurisprudence. They resort directly to the Qur’ān and advocate not

merely Islamic law but a socio-political edifice that adheres to flexible notions of Islamic principles and values. They have also accepted the compatibility of democracy and *sharī'ah* without confronting the problem of reconciling notions of divine sovereignty with popular sovereignty. Feldman is of the view that the success of Islamic movements hinges upon giving due recognition to Muslim scholars as leaders of the society who, then, would act as a check to executive powers. Failing to institutionalise a system of check and balance between the government forces and the religious scholars, as the Iranian case exemplifies, would result in the failure of the Islamic Republic.

Feldman concludes by pleading the United States to play an active role in promoting justice and the rule of law via the *sharī'ah*. "Our best efforts must be devoted to building institutions that perceive themselves and are perceived by the public as committed to the rule of law. Aid can be made contingent on respect for the roles of courts and legislatures. Executives can be pressured to adhere to the laws and judgments of coordinate branches of government even (or especially) when no direct foreign interests is at stake (p. 149).

The Fall and Rise of the Islamic State will be well received by Muslims for several reasons. Firstly, it is a sympathetic commentary on the Islamic regimes of the past 14 centuries. Secondly, unlike many Islamophobes who are allergic to the term *sharī'ah*, Feldman advocates for *sharī'ah* as a potential way to help democratise Muslim societies. Thirdly, Feldman condemns the autocracies in many Muslim countries but he rightly argues that *sharī'ah* is not to blame. Indeed, *sharī'ah* is not the law of the land in the monarchies and oligarchies in the Muslim world. Finally, Feldman is right in pointing out that Muslim yearning for the "Islamic State" is due to the injustices perpetrated by ruling regimes of the Muslim world.

Feldman would have been on a safer ground had he analysed the injustices suffered by Muslims in their respective countries as conditions giving rise to the demand for the Islamic state. He falters, however, by deciding to chart a new territory by attributing the reasons for the resurgence of Islamic state idea to the rule of law and justice prevalent in the past 14 centuries and to the absence of Islamic scholars in the decision making structures of the prevalent political system.

One of the major theses of the book is that the contemporary call for the Islamic state is largely due to the need to regain the past glories of the Islamic state. For “exactly thirteen hundred years,” Feldman argues, Islamic governments were lawful, legitimate and just and “were so Islamic that they did not need the adjective to describe themselves” (p. 1).

History, however, bears witness that the first four caliphs (*khulafā' al-rāshidūn*) adhered strictly to the dictates of the Qur'ān and the Sunnah. They established judicial institutions and delineated rules of judicial procedure applicable to the rulers and the ruled alike. Muslims in every age looked up to them for inspiration and take them as role models to be emulated in every aspects of life. Gradually, as Ibn Khaldun explained, the restraining influence of religion weakened. The *khilāfah* was transformed into *mulk*. The egalitarian community headed by its elected, pious caliph had become an empire ruled by a hereditary caliph who wielded absolute power. To characterise post-*khulafā' al-rāshidūn* system of governments as Islamic state, as Feldman does, is to do violence to history. There were no Islamic states but states run by Muslims in the name of Islam. Some Muslim scholars, therefore, prefer to use the term Muslim history rather than Islamic history.

Feldman also appreciates the role of religious scholars who interpreted the *sharī'ah* and served as a check on tyranny, preventing rulers from exploiting religion to justify their political positions. Historically, this position is not tenable. Admittedly, religious scholars commanded respect from the rulers and the general public. Equally true is the fact that scholars did revolt and did speak against the tyranny and falsehood of the rulers of the time. They were sincere in wanting the system of government to be *sharī'ah* compliant and thus interpreted the *sharī'ah* that served the interest of the rulers. For instance, it was Abul-Ḥasan al-Māwardī (d. 450/1058) who legalised the seizure of executive power by local rulers. Imam Abu Hamid Muḥammad Ghazālī (d. 505/111) conferred the office of the Caliph to whoever enjoys the allegiance of the possessor of military power. Indeed, with Badr al-Dīn ibn Jam'ah (d. 732/1332), military power became the sole essence of rulership. Thus, most of the scholars monitored the rulers but were powerless to control them. They, therefore, interpreted the *sharī'ah* flexibly to provide a

semblance of legitimacy to the rulers hoping, in vain, that by so doing the rulers would adhere to the *sharī'ah*.

It must be noted that contemporary Islamic movements do not treat *khilāfah* as a historical institution to be replaced in its entirety. Their leadership, though not composed of religious scholars, desires a system of *khilāfah* which aims at the welfare of humanity through the implementation of Islamic values and principles enshrined in the *sharī'ah*. They do believe, as does Feldman, that *sharī'ah* has the capacity to function as a tool for the fair administration of justice. Therefore, Feldman's suggestion to help develop a *sharī'ah*-based political system embedded in a constitutional order will be acceptable to Muslims and is well worth considering. A Gallup opinion poll suggests that Muslims desire a system based upon *sharī'ah* but they are not keen on having religious scholars exercising executive power.

The Next 100 Years: A FORECAST for the 21st Century. By George Friedman. New York: Doubleday, 2009, pp. 253. ISBN: 978-0-385-51705-8.

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Francis Fukuyama in *The End of History and the Last Man* (New York: Free Press, 1992) pronounced the end of history and the universalisation of Western liberal democracy. Samuel Huntington in *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1997) announced the return of history, the clash of civilisations and the remaking of a new World Order. George Friedman's *The Next 100 Years: A FORECAST for the 21st Century* confirms that history indeed continues to unfold and predict, on the basis of history and traditional geopolitics, that the "history of the United States will be the history of the twenty-first century" (p. 13).