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Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament*, Columbia University Press, 2012, \$25.00 US (pbk), 272 pp., ISBN: 9780231162579.

Wael Hallaq's *The Impossible State: Islam, Politics, and Modernity's Moral Predicament*, published in 2012, raises a number of important theoretical questions about the complex intersection of modernity, Islam, liberalism and the state. The book is grounded in a broad range of interdisciplinary scholarship including original Arabic and Islamic sources that are put into conversation with a rich diversity of western philosophy, particularly the thought of Michel Foucault and Carl Schmitt, contemporary virtue ethics and communitarian political philosophy. The book is meant for specialists in Islamic history, theology, and political philosophy, but it will also find a welcome entrée for students of Islamic studies to international relations. General readers interested in contemporary issues surrounding Islam, religion and the state will find an accessible introduction to the topic of Islamic law and its wider application in the modern world.

## *The Basis for Incompatibility and the Paradigm of Islamic Governance*

The first aim of the book is to address the global crisis in morality that has been ushered in by the modern state and liberalism (21, 74). Hallaq argues that the paradigm of pre-modern Sharī'a and the philosophies and ethics it underpins presents an important, albeit neglected, resource for addressing the crisis of morality that modernity has brought about (12-13). The first third of the book lays out the moral and theoretical dimensions of Islamic governance by showing why there exists a fundamental incompatibility between the modern liberal model of the nation-state and a state based upon pre-modern Sharī'a. Hallaq identifies five 'form-properties' of the modern state that are the essential components of a state and that stand in dialectical relation to one another. These five form-properties are ultimately incompatible with Islamic governance. Firstly, it is essential to note that the state arose in a specific European cultural and historical context. It is therefore a fallacy to claim that our modern conception of the state is neutral or universal beyond this historical context. Thus, to impose the modern state on Islamic society without recognizing the nuances of Islamic governance and how it evolved runs the risk of appropriation and a range of other misunderstandings (23-25). Secondly, the metaphysics of the state and its sovereignty is such that it grants its own legitimacy to itself. For Islamic governance, this is problematic because it creates a separate metaphysics from its own, and by extension the modern state forces

Muslims to live under another God (25, 27-28). Thirdly, as an expression of its sovereign will, the state develops laws that become the very expression of this sovereignty, and this makes the boundaries of violence set by the state and no other mediating entity. The way that this relation between the sovereign will of the state, law and violence functions makes the state the “God of Gods,” as it maintains an exclusive right to institute violence (29-30). Fourthly, the bureaucratic machine of the rational western state develops its own type of community that becomes the state as such, and this model of community remains anathema to Islamic governance (31-33). Later in the text Hallaq will develop an argument that the autonomy of the community is managed outside of the domain of the state in Islamic governance and this provides a number of moral and ethical values for the overall health of a society. Fifthly, the complex dialectical relation between the state and the cultural sphere is unable to escape the sovereign will of the state and there remains no autonomy for the cultural domain. As Hallaq argues, “since the state knows only itself, that it is its own end,” the cultural sphere is never autonomous from the state (36). The lack of autonomy that civil society and the cultural sphere experience in the modern state is anathema to the very basis of Islamic governance, and Hallaq develops this argument throughout the book. Although not directly part of the five main form-properties, an interesting point of incompatibility between Islamic governance and liberalism is that the category of the poor and disenfranchised must receive special dispensations in any Islamic governance as they are considered to be a deontological concept tied to the very core of Muslim morality (158-159).

Another important aim of the book, in addition to the focus on incompatibility of Islamic governance and the modern state, is explicating the pre-modern conception of Sharī‘a as a paradigmatic “technology of the self”; i.e., it provides an alternative set of moral, conceptual, and ethical resources for thinking through the crisis of modernity (135-136). Hallaq invokes the distinction that Foucault develops in his late lectures on ancient Greek life, between the two dominant paradigms of “know thyself” and “care for the self” (98, 107) to better understand the larger differences between the modern state and Islamic modes of governance. Liberalism excludes technologies of the self that favor care of the self in favor of a know thyself model based on self-mastery and self-knowledge and, in Hallaq’s estimation, this exclusion of the care of the self paradigm has major political and ethical consequences for liberal societies. In his use of the term *paradigm*, Hallaq refers broadly to the collective moral, legal, ethical, and practical spheres that compose a total system of life and that produce a distinctive subject (135-138). The modern paradigm of the Schmittian state persists without the central and autonomous position of the moral individual and the moral community, whereas in Islamic governance, the community is placed in the position of the nation-state (49-51).

While Hallaq is critical of Schmitt, he relies on his theory of the state to draw conclusions about the incompatibility of Islamic governance with the modern state. For Schmitt, the state becomes God in the modern period (28). What was social is now a matter of the state for Schmitt, and the domains of culture, education, and economy all cease to be neutral in his framework (8). For Schmitt, as soon as society loses what he refers to as the “grounding principle” based on the “friend/enemy distinction,” politics is reduced to merely policing disturbances (9). This conflation of state and society is also present in Pierre Bourdieu, an author that Hallaq turns to in an attempt to argue that the growing erosion of the state by neoliberal capital is in fact an intensification of the state.

Hallaq counters Schmitt’s conception of the modern state by privileging the sphere of the moral, which he argues ought to have autonomy outside of the state. He writes, “The modern state cannot operate on ethical grounds, nor can it ontologically operate as a moral

entity” (93). Despite a lack of concrete examples, Hallaq does make a convincing case for how the “care of the self” was integrated within Sharī‘a and Sufism during the twelfth century in the thought of the jurist and theologian al-Ghazali. Al-Ghazali was a part of what Hallaq calls “a class of mystic-cum-jurists...that did not distinguish, in the practice of living, between the meanings of the legal, the moral, and the mystical” (138, emphasis in the original). This led to the creation of an ideal subject that fuses the practical and theoretical interaction between legal doctrine and the individual Muslim subject as a member of the community (114).

In the sphere of law and legality, pre-modern Sharī‘a “is a primarily social, not a political, phenomenon. It is identified with society, not the ‘state,’ regardless of how the ‘state’ is defined” (186 fn.103). Thus, the modern western-European conception of the state is not incompatible with Islam because of an inability to produce what Rawls calls an overlapping consensus between these various spheres of governance.<sup>1</sup> The modern state elevates law as unitary and absolutist whereas Sharī‘a privileges an autonomy between and amongst different spheres. The ruler represents a messenger (*rasul*) acting on behalf of the community of Muslims for whom he works, which is why the figure of the *qadi* is appointed by the common people and is the figure that keeps balance in place with the ruler (57-60).

### *The Centrality of Community and the Moral in Islamic Governance*

Firstly, let us begin with an overview of the concept and placement of community (*umma*) in traditional Islamic governance, as it remains a central point of difference with the modern liberal state. Hallaq argues that as long as the state exists, there will always be a strong bureaucracy; however, in traditional conceptions of Islamic governance, the state, or the executive branch, is put in a subordinated position (50). Traditionally, the community was legally under the purview of the *mufti* and the *qadi*, or local religious figures that managed civil law. This body of jurists held autonomy over the sultanate/executive branch. The boundary of the community with that of the executive branch was the Sharī‘a, and thus the community is the totality of believers that stand before God, whose sovereignty comes before the Sultanic consul (50). In the pre-modern Sharī‘a, the *umma* is central to the sphere of the moral. As Hallaq writes, “Morally based practical ‘legal norms’ are put in the service of society, nurturing the community qua community and serving its interests as a morally constituted entity” (139-140).

In the section, “The Central Domain of the Moral,” there are a range of references to various political philosophers such as Charles Taylor, Alasdair MacIntyre, and other communitarian thinkers. These thinkers are invoked, at least in part, to “summon up the intellectual stamina needed to provide a persuasive antidote to the dominating liberal concept of universalism” (168). It is surprising that Hallaq neglects social contract theory when the theme of the will, the status of the poor and disenfranchised, and the philosophy of community present important lines of overlap and compatibility with many of the form-properties and aporias identified between Islamic governance and the modern state. Hallaq has noted elsewhere that his primary motivation for writing the book was to create discussion with western intellectuals and philosophers about the role of Islam in the crisis of modernity.<sup>2</sup> Hallaq is careful not to argue that Islam requires western philosophy to think

<sup>1</sup> John Rawls, “The Idea of an Overlapping Consensus,” *Oxford Journal of Legal Studies*, Vol. 7, No. 1 (Spring, 1987), 1-25.

<sup>2</sup> Hasan Azad, *Muslims and the Path of Intellectual Slavery: An Interview with Wael Hallaq (Part Two)*, *Jadaliyya*, June 7, 2014, <[http://www.jadaliyya.com/pages/index/18036/muslims-and-the-path-of-intellectual-slavery\\_an-in-in](http://www.jadaliyya.com/pages/index/18036/muslims-and-the-path-of-intellectual-slavery_an-in-in)>.

through its various intellectual and moral problems, however, he seems to genuinely desire a dialogue and exchange between the two otherwise disconnected fields of study.

While Hallaq grounds the core idea of the care of the self and the paradigmatic notion of Islamic governance on Foucault, he opts for a conception that more closely resembles contemporary Aristotelianism, communitarianism, and virtue ethics. Furthermore, he seems to be singularly interested in Taylor and MacIntyre, both communitarians and virtue ethicists who do not shy from invoking questions of morality. Hallaq seems to suggest that these modes of ethics and morality are in fact the most compatible with Islamic ethics and governance. But at times, he is less certain that there is a potential integration between Islamic ethics and these western traditions. Part of this challenge has to do with the way that the domain of the moral is an originally derivative category of all governance and life in pre-modern Islamic metaphysics. As such, all moral actions of humans have a reciprocal relation to the moral laws of nature (84). This framework remains highly metaphysical and would certainly have difficulty in squaring with secular conceptions of morality, regardless of which school of thought one is working with: poststructuralist, deconstructionist, psychoanalytic, etc.

### *Thinking Islamic Governance with Continental Philosophy*

One area where Hallaq can find additional connections to western traditions of ethics and philosophy is in the philosophy of community found in thinkers such as Jean-Luc Nancy, Roberto Esposito, Giorgio Agamben, and Ernesto Laclau. This rich set of thought offers conceptual resources for thinking about the crisis of modernity as well as Islamic governance. While Hallaq does not avoid the Continental tradition outright as his references to Foucault and Schmitt amply show, there is a more general resistance between Continental and contemporary Islamic thought. In many ways, this resistance is not surprising as most Continental thinkers are avowed atheists, Continental thought tends to de-privilege the domain of the moral in its ethical frameworks, and, many Continental thinkers have moved beyond metaphysical conceptions of the subject.

Despite these differences, Hallaq's argument can find theoretical synergy in works such as the *Inoperative Community*, where Nancy thinks community as, similar to the Sharī'a model, coming about before the law and sovereignty. For Nancy, the sphere of the political, or what he calls "being-together," is brought about through a decision that eschews the Schmittian state of exception, as it is not built around the establishment of the sovereignty or a social contract, but rather, a decision is as Nancy states, "existence as such, and existence, inasmuch as it does not take place for one alone or for two but for many, decides itself as a certain *in* of the in-common."<sup>3</sup> Decision consists precisely in what the community, or the 'we' have to decide on, in and for our world, and thus, first of all, to decide on the 'we,' on who 'we' are, we have to first decide how we call ourselves a 'we.' Unlike the communitarian question of belonging, Nancy's thinking on community argues that we must think community as a demand beyond idenitarian models, a thinking that must also abandon any thinking of the subject. The invocation of a non-idenitarian community is also present in Agamben's *Coming Community* through his reading of St. Paul,<sup>4</sup> and it bears questioning the

<sup>3</sup> Jean-Luc Nancy, *Politics I and Politics II*, in *Deconstruction: Critical Concepts in Literary and Cultural Studies*, Volume 4, edited by Jonathan Culler (New York and London: Routledge, 2003), 98. Emphasis in original.

<sup>4</sup> Giorgio Agamben, *The Coming Community*, Theory Out of Bounds, Vol. 1, trans. Michael Hardt (Minneapolis: University of Minnesota Press, 1993).

extent to which the Muslim *umma* can think community beyond the categories of cultural, racial and ethnic identity.

The very idea of community is inoperative for Nancy because the beings (subjects) that inhabit the community do not arise out of the diversity of a community, but arise out of a singular being that is always other. As Nancy writes in the *Inoperative Community*, “a community is not formed when a set of previously independent and self-sufficient beings unite and form a collective enterprise, as say, social contract theorists would have it.”<sup>5</sup> In order for the community to have an identity that is immanent to it, it needs to be brought out and put to work, which means that while the community is inoperative, it is also producible. The community-as-subject means that the community is developed through work. The community is inoperative precisely because “it contains no subjects, it is idle, because it lacks an essence that can be put to work.”<sup>6</sup> Nancy’s finite community strikes many points of similarity with the ideal pre-modern Sharī‘a *umma*, as it was the *umma* that performed the work of the larger society, and perhaps his thinking of community can aid contemporary discussions on the Islamic state.

Another area where Hallaq’s work would benefit from a closer connection to Continental thought is around the definition of the moral domain as such. Hallaq defines the lack of any moral center in modern liberalism as a failure of the ‘Is/Ought’ distinction, meaning that the ‘ought’ has been replaced with the positivism of the ‘is’ in modernity. In other words, we have lost the ability to declare ‘ought’ statements with any force of legitimacy in the modern period and have privileged the bare existence of what is. For Continental thought, too, this is a problem; however, the solution for rectifying it is treated in the sphere of the political and not the domain of the moral. Since we do not have a world where the ‘ought’ can be invoked, this changes the very nature of ethics. Ethics, as a discipline of philosophy that thinks a conception of the good life, or *eudemonia* in the Aristotelian tradition of virtue ethics, cannot be realized, and this inability of ethics to make moral claims places politics, and political interventions in a privileged theoretical position. This tendency has led some to claim that politics now precedes ethics as first philosophy for a wide array of Continental thinkers on the left including Badiou, Nancy, Žižek, Laclau, and Agamben.<sup>7</sup> The consequence of politics replacing ethics as first philosophy means that any thinking on community must be pre-political, and politics therefore shifts its relation to ethics. A larger consequence of this theoretical shift is that ethics is no longer about the commitment, care, or duty to the Other, as we find for instance in Heidegger, Levinas, or Derrida, and the ethical turn is overturned, as it were, opening to a new, political turn in ethics. Whether Hallaq can think such a political mode of Islamic governance seems to be unlikely; however, based on the events in the Middle East today, such thinking seems more and more necessary.

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<sup>5</sup> Jean-Luc Nancy, *The Inoperative Community*, trans. by Peter Connor, Lisa Garbus, Michael Holland, and Simona Sawhney (Minneapolis: University of Minnesota Press, 1991), 144.

<sup>6</sup> *Ibid.*, 148.

<sup>7</sup> Carsten Strathausen, “A Critique of Neo-Left Ontology,” *Postmodern Culture*, Volume 16, Number 3 (May 2006).

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