

Sami Zubaida (2004) *Law and Power in the Islamic World*. New York, NY: I.B. Tauris, 248, \$55, £35, ISBN 1-86064-865-7

Sami Zubaida's *Law and Power in the Islamic World* is a fascinating politico-social history of the relations between Islamic law and the procession of political masters which have ruled the Middle East since the Prophet's death. One message is clear: the notion of an omnipotent *Shari'a*, passed from caliph to caliph for 14 centuries, is a myth held by both Islamist radicals and their western critics.

Zubaida shows how the Shari'a - a body of texts and practices distinct from the Qu'ran itself, evolved for several centuries after Mohammed from both pre-Islamic tradition and the deliberations of four distinct theological schools. Though the Shari'a and the growing body of juristic precedent, or *fiqh*, which accreted to it gained a certain path-dependency through traditionalisation, Islamic law always occupied a specialised niche in the Islamic polity. Clerics in the medieval and early modern caliphates, from the Umayyads to the Ottomans, were subordinate to the ruler and usually complicit in the hedonistic and corrupt lifestyle of the imperial elite. As part of this elite, the *ulama* provided religious legitimacy for the ruler's actions and clerical posts - part of the power structure of state - were often passed down through families or purchased outright.

Not only did state prevail over religion, but the imperial state consistently intruded into the province of the law. Part of the reason is practical. The Shari'a provides guidance in only a limited number of the spheres (family law, some commercial law) necessary in a complex polity. Accordingly, a good deal of law was promulgated by administrators, notably in the public arena. Shari'a prescriptions regarding alcohol or the charging of interest were generally fudged with clerical acquiescence. Meanwhile, much litigation bypassed the traditional, clerical *Qadi* courts. State courts handled a great deal of cases, with guilds, millets and tribes adjudicating in disputes between their own members.

So where did the myth of a monolithic Shari'a and 'traditional' Islamic theocracy come from? To a limited extent, there existed a literalist theological tradition extending from ibn Hanbal through ibn Taimiya and the Kharijites which railed against the corruption of rulers (often foreign like the Mamlukes or Mongols). But this current of thought - taken by Ernest Gellner as emblematic of the '*umma* (faithful masses) versus corrupt ruler' paradigm, is shown by Zubaida to be exceptional in the history of the Muslim Middle East.

The second half of the book considers the progressive centralisation of the state and consequent étatisation of the law under the late Ottomans. In addition to growing state encroachment on the religious courts and institutions, there occurred, in the nineteenth century, the first egalitarian reforms designed to raise the citizenship status of non-Muslim minorities. Meanwhile, laws were increasingly codified along European lines, encroaching on traditional Shari'a territory like commercial law.

A populist, anti-Western backlash against the equal status of non-Muslims heralded the rise of the kind of Islamist *ressentiment* current today. One form of this Islamic 'nationalism' was the politicisation of Shari'a as a symbol of Muslim resistance to

western power and cultural influence - a recurring motive that Zubaida holds to be the principal motor behind much contemporary Islamist agitation.

The twentieth century, which Zubaida analyses through comprehensive chapters on the Egyptian and Iranian cases, began as an age of liberal reform in the Middle East. Modernisers like Atatürk in Turkey, Reza Shah in Iran and Nasser in Egypt firmly suppressed the *ulama* and ran secular regimes, despite paying lip service to the Shari'a. However, the recrudescence of Islamist sympathies at the popular level helped to fertilise the revival of Islamist politics, which burst forth in the 1970s. In Egypt, Sadat brought in the Islamists as an instrumental ploy to outflank the Nasserist left while in Iran, an Islamist Revolution triumphed in 1979. Though the Shari'a is very much on the lips of the new Islamist movement, Zubaida contends that - even in Iran - strong pragmatic imperatives have stalled or curtailed the implementation of most Shari'a provisions. Zubaida concludes by arguing that much of the Shari'a is simply not well-suited to the exigencies of a modern complex state and that the young, women and intellectuals are growing increasingly disenchanted with Islamist politics in Iran - and even to some extent in Egypt.

This is a complex *tour d'horizon* which is rich in legal, political and historical detail. The book cleaves closely to its theme of the constructedness and contingency of the Shari'a and carries this theoretical unity off well. The attempt to draw continuity between the modern and pre-modern epochs is executed magisterially. However, one might well demand to know why, if the historic trend is toward secular politics, Islamism has experienced such a pronounced resurgence. The challenge of the West, and the backlash of Islamic resentment, is centuries old, yet Islamist politics possesses an almost unprecedented amplitude. We get a sense of a seemingly puzzling upwelling of social forces from below that does not square with the author's optimism about the discontent of women, youth and the intellectuals. This discontinuity (possibly linked to forces like rural-urban migration, technological change and integration, theological innovation or population growth) needs more explanation even as it is not the main subject of the book. In a related manner, the idea that there is a functional imperative toward secularisation has some merit but shades into teleological optimism at certain points. The book's sections on pre-modern Islam are rich in detail and analysis, though there lurks in the mind of the western reader the question of why the Arab bourgeoisie was so much less of a Progressive force than its pre-modern western (though not, alas, Eastern European) counterpart and why Greco-Roman philosophy was so effectively blocked from the pantheon of Islamic legal thought in the pre-modern epoch. Minor omissions aside, this is a stimulating, timely and fascinating read that has much to contribute to academics, students and practitioners of Politics.