



Book Review: Fahmy, Khaled. *In Quest of Justice: Islamic Law and Forensic Medicine in Modern Egypt*. (Oakland, CA: University of California Press, 2018). ISBN: 978-0-52027-903-2

Ali Ekber Çınar

The nineteenth century is a watershed for the encounter of Muslims with modernity. Having commenced the century with a French campaign and the advent of khedival dynasty, Egypt was no less touched by this face-off. Khaled Fahmy's *In Quest of Justice* handles this very topic putting Islamic law and forensic medicine in its centre.

The book revolves around a medical complex, *Qaşr al- 'Ainī*, launched as a military establishment but ended up as a civilian one. At odds with the traditional narrative which makes a big deal of “great men” such as Mehmed Ali Pasha and Clot Bey, a French doctor employed by Mehmed Ali, Fahmy deems this outlook nearly elitist. In the stead, he espouses a bottom-up approach rather than a top-down one; in doing so, the questions on how non-elite Egyptians engaged with the modernization and how they reacted to it are put on the table. Along with this approach, he also suggests that *Qaşr al- 'Ainī* must be deliberated over in reference not to a European frame but to an Ottoman one. Aside from *Qaşr al- 'Ainī*, the book privileges *majālis al-siyāsa*, a legal entity founded in the midst of the nineteenth century, to which forensic reports of *Qaşr al- 'Ainī* medicines were dispatched. The book spotlights not only the *siyāsa* legal practice, but also the transformation the ruling class underwent between 1830 and 1880.

The book consists of five chapters. It places the human body in its heart, and each of the five chapters, albeit focalizing neither social nor cultural history of them, bears on a separate sense – sight, sound, smell, taste, and touch, respectively. The chapter one, entitled “Medicine, Enlightenment, and Islam”, dwells on the introduction of autopsy and anatomoclinical medicine in Egypt and seeks to elucidate the reaction that divergent layers

* Corresponding author: Ali Ekber Çınar (Res. Asst.), Galatasaray University, Law Faculty, Istanbul, Turkey. E-mail: aecinar@gsu.edu.tr
ORCID: 0000-0002-6404-9271

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of Egyptian people showed to quarantines and dissection. In addition, an attempt is made in this chapter to grasp whether that reaction stemmed from religious or military reasons. In 1827, a hospital was founded in the desert of 'Abū Za'bal, a short distance away from a military base, under the direction of Clot Bey. Ten years later, Pasha enjoined the relocation of the hospital to *Qaṣr al-'Ainī*, after which the hospital has been named, upon Clot Bey's request. Taking issue with the view explaining medical reforms through the metaphors of light and enlightenment, Fahmy asserts that Egypt owes its medical improvement to the arduous conflict played out between the khedival and Ottoman dynasties. The quarantines, he argues, were put into place by Mehmed Ali exclusively for military purposes; ergo, they were solely a diminutive part of the whole intended to boost the power of army. As to the dissection, Fahmy underscores that the opposition of 'ulamā' was by virtue not of their belief that the corpse would suffer, but of their worry about the delay in burial.

Entitled "*Siyāsa*, the Forgotten Code", the chapter two centres upon law through the interplay between *fiqh* and *siyāsa*, a long-standing legal system often described as discretionary. Critical of the hitherto prevailing view that law in Egypt went through secularisation in the nineteenth century, Fahmy delves into the current historiography and notes that it is replete with portrayals depicting the Egyptian law as despotic, arbitrary, and unfair particularly in terms of rule of law, juridical equality, and secularism when compared to Egypt. The driving force, the historiography contends, was first and foremost to keep up with Europe, hence the shrinkage of the *shari'a* system to almost only personal status in a piecemeal manner. This being the case, he notes a niche in these accounts pertinent to *siyāsa*. Counting on penal law, the author maintains that *fiqh* and *siyāsa* were tellingly harmonious rather than conflicting, as the former fell short in some cases and the latter complements it; moreover, the latter was in fact inaugurated for a better implementation of *shari'a*. In the same vein, he claims that the legal transformation must be considered bureaucratization rather than secularization; for instance, written documentation was welcomed in the *siyāsa* legal system whilst the *shari'a* courts were opting for the oral. The attitude of *siyāsa*, which embraced textuality and cared less about individuality, gave a fresh impetus to the development of notion of equality as well.

Public hygiene and urban planning are dealt with in the chapter three, "An Olfactory Tale of One City: Cairo in Khedival Times". An intricate project to protect public health was set up countrywide in Egypt in the nineteenth century, and some measures were accordingly taken. These measures, consequently, had a significant impact on daily life of the people. Unprecedentedly, the khedival plan launched for

the public hygiene included the use of cartographies and statistical data to restore Cairo's rigor, and the plan envisaged splitting the city into two parts. What is salient in this chapter is Fahmy diligently uses statistical records concerning deaths in Cairo and provides useful information about five other European cities as well.

The chapter four sheds light on monitoring food markets. Entitled "Law in the Market: *Hisba* and Forensic Chemistry", it spells out how the control over the market changed hands in the nineteenth century. This control was for a long period of time enjoyed by *muhtasib*, and comprehensive guidelines were laid down in theoretical manuals for market inspection. Be that as it may, the authority of the chemistry, forensic medicine and police took root over time at the expense of *muhtasib*. The theory of *hisba* has been constructed as an insurance which safeguards rights, sustains justice, and keeps piety safe. Nonetheless, two shortcomings catch Fahmy's eyes; in the first place, *hisba* was subordinated to the state without doubt; in the second, its theory involved the violence at its core. Khedival state could get around these problems only when the new legal and medical body emerged.

When it comes to the chapter five, "Justice without pain", it chiefly discusses the flogging and its prohibition. Fahmy highlights that forensic medicine and prisons outdated the flogging, and the police in Cairo became distinctly central not only as a power hub for the khedival state but also as a site providing universal justice. By the same token, the forensic medicine turned out to be immensely significant despite its relatively recent foundation. The central role played by law, then, is zeroed in on, which is hardly surprising when khedival need for the law in bureaucratising the state is taken into consideration; thus, the Egyptian legal system was relied not on "rule of law" but on "rule by law". Most notably, the police reportedly resorted to duress, and *siyāsa* readily admitted the evidence obtained through coercion in stark contrast with *shari'a* courts until an end is put to this by the khedival state. Another difference between *siyāsa* and *shari'a* arises in terms of the admission of medical expertise and its probative value during adjudication process. Most strikingly, *fiqh* requires the medical expert to operate under *muhtasib*'s supervision while *siyāsa* councils differ from it in four main respects – *siyāsa* medicine was (i) decidedly more advanced, (ii) textual rather than oral, (iii) delivered by experts employed by the councils, (iv) and demolishing social hierarchy. Later, Fahmy concludes that the abolition of violence did not occur for the sake of humanity but to strip the political power of the governing household.

With regard to the method, the book explores the transformation in Egypt in its proper and own context and goes about taking into account not only the concepts

but also the practice. Besides, the book adequately lets the reader know at the outset that it will embrace nothing more than a given society, a specific period, and a couple of institutions – namely Egypt, the middle of the nineteenth century, and medical as well as legal institutions.

Noticeably, Fahmy disagrees with the argument that the reforms in the Egyptian context were not entailed by a pure process of modernization or Westernization; likewise, they were not endeavoured to rub out the Islamic law. The reforms, however, were a notch stepped up to boost the military and to gain independence from the Ottoman Empire in earnest. As a matter of fact, to say that Fahmy proposes focusing on *siyāsa* rather than *fiqh* in exploring them would be nothing short of truism; in this regard, his efforts may be seen as a reckoning with the existing literature, which tends to interpret the Egyptian reforms in the nineteenth century through *fiqh*. This conveys the impression that Fahmy, as the crux of his claim, alludes to a new understanding that the Egyptian secularization dates back as far as the nineteenth century. In parallel, he gainsays a plethora of authors, including Talal Asad and Wael Hallaq, on myriad occasions and grounds.

The book is of paramount importance considering the subject it elaborates, the perspective it adopts, and the bottom-top path it follows. Every single chapter seemingly covers a particular theme, yet forks of the river merges in the long run and a wholistic panorama shows up. Moreover, the abundant use of archival materials, not least reports of forensic medicine, renders the study vital. On top of that, the author's narrative style is appealing; more often than not, he calls upon historical records, which catch the reader's attention, and avails himself of a wide range of vocabulary. Nevertheless, the book is not utterly free of blemishes. For instance, although Fahmy puts forward that he prioritises the Ottoman context, it is hardly possible to attest he managed to achieve this in depth. Notwithstanding his affirmation in the introduction and the conclusion that a premium is placed on the Ottoman backdrop of the reforms, the author scarcely embeds his arguments in the Ottoman context throughout the book. Furthermore, the relationship between some issues the book tackles (e.g., public hygiene, public health, miasma, and bad air) and the struggle to overcome the Ottomans remains vague and unclear. Another drawback of the book is the distorted impression it creates as for the connection between *fiqh* and *siyāsa*, as the former appears to be almost peculiar to '*ulamā*' and the latter to the ruling elite. Similarly, saying that *fiqh* and *siyāsa* differ one from another epistemologically on the one hand, and the *siyāsa* councils operated in harmony with its *shari'a* counterpart on the other, he could have crystallized this point more comprehensively.

To sum up, *In Quest of Justice*, challenging the current literature in part, opens up new horizons for researchers and paves the way for new discussions. This being the case, it makes an invaluable contribution to the field and has a potential to serve a wide audience, ranging from the expert to the layman.

