

WAS SAID HALIM PASHA'S ISLAMIC STATE POSSIBLE? READING LES INSTITUTIONS POLITIQUES THROUGH HALLAQ'S IMPOSSIBLE STATE

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INTRODUCTION

The necessity of reforms became more evident with every domain and war the Ottoman Empire lost to a new monster, the leviathan as Thomas Hobbes famously called the modern state. Ever since the question of Islam and the state has been one of the pressing questions for Muslims the *Ummah* over. While the call for an “Islamic state” is often solely thought of in relation to Islamists such as Sayyid Qutb and Abul-Ala Al-Maududi, it in fact has earlier roots in the late Ottoman Empire. While in exile from the aftermath of World War I, but before the establishment of secular nation-states in the former Ottoman domains, Said Halim Pasha, a former grand vizier of the Ottoman Empire and Islamist intellectual, wrote an essay outlining his vision of an Islamic state entitled *Les institutions politiques dans la société musulmane* (The Political Institutions of Muslim Society). Exactly a century later, Wael Hallaq would declare in his *Impossible State* the impossibility of reconciling

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the modern state and Islam. What would happen were we to read the two in conjunction?

Said Halim Pasha was the grandson of Muhammad Ali, who is usually credited as the founder of modern Egypt. One of the Ottoman Empire's last grand viziers, he held the office leading up to and during World War I, which he attempted to keep the empire out of. (Şeyhun, 2002: 165-170) Said Halim Pasha often presents an enigma, as despite his clear "Islamist" convictions, he served as grand vizier under the Young Turks, who were traditionally thought of solely as a secularizing force which paved the way for the establishment of the Turkish Republic. However, he is perhaps even more well-known for a series of essays, written in French and translated into Ottoman, that were published in Istanbul and various European capitals between 1910 and 1921. (Şeyhun, 2002: 11) We will focus here on his vision for the Islamic state, which shares both features of historical Islamic governance as well as features of the modern state. In an irony of history, the grandson of the founder of the modern Muslim state would be one of the proponents of the Islamic state.

One of the most present problems in the scarce English academic literature on Said Halim Pasha so far has been the desire to classify him as "modernist" or "traditionalist." Specifically, we will challenge this binary through his conception of the Islamic state in his life's last work, "The Political Institutions of Muslim Society." Specifically, after examining some of the literature in Ottoman studies on the "early-modern" and "modern" state, we will turn to Hallaq's *Impossible State*. Though a recent work, it became an almost instant classic for Islamic studies with its bold argument that the modern state and Sharia governance are fundamentally incompatible due to modernity's "moral predicament." Through a close reading of "The Impossible State" and "The Political Institutions of Muslim Society," we will show that though Said Halim Pasha uses the term "state," his conception of Islamic governance does not meet Hallaq's definition of the modern state. Indeed, we will see that the Pasha's critique of Western society to which he contrasts the "Muslim Political Regime" shares much with Hallaq's critique of modernity and the modern state. The importance of this argument lies in its historical significance and suggestion that the modern Muslim nation-state was not a historical inevitability, as if any Ottoman Islamist would meet Hallaq's thesis it should Said Halim Pasha, who was an Islamist who worked with "modernists" and wrote mere years before the establishment of Turkey and Egypt.

A final word is due on the definition of the state before turning to Said Halim Pasha's text. The state and modernity is a thorny issue in academia far beyond Ottoman Studies or Islamic Studies. Some academics, for example Bob Jessop in *State Theory: Putting the Capitalist State in Its Place*, agree with Hallaq in seeing the modern state as radically different from pre-modern "states," which by this definition were not truly states. (Jessop, 2013) On the other hand, another group such as Michael Mann in *The Sources of Social Power* argues that pre-modern states can in fact meaningfully be termed "states," focusing more on the continuity between the pre-modern and modern state. (Mann, 2012) This fundamental ambiguity is highlighted throughout the text by placing the "state" in parenthesis in alternation with the term "Islamic governance."

Muslim Society's Political Institutions

Les institutions politiques dans la société musulmane (The Political Institutions of Muslim Society) is a fascinating treatise due not only to the argument's originality, but also its historical context. Said Halim Pasha's thought and his last text in particular, represents an attempt to place Islam as the basis of the socio-political order right before the formation of nation-states in the post-Ottoman world. While the first drafts were written during his imprisonment on Malta, the Pasha published it whilst exiled in Rome, as British occupation obstructed him from going to both Anatolia and his birthplace of Egypt. At the time, both countries saw "nationalist" agitation against colonial rule, with Said Halim Pasha even sending an early draft of this essay with a handwritten note to Egypt during its uprising against the British as his "humble contribution."¹ Given the generations of nationalist historiography, it is important to mention here that an intellectual sending a treatise on the Islamic state as his contribution to a "nationalist" uprising was not as strange at the time as it may seem to us. Calvert points out while writing on the young Qutb, who gave rousing speeches for Egypt's independence, that the Wafd party's call for Egyptian independence was mostly understood in terms of loyalty to Islamic civilization and the caliphate. (Calvert, 2010: 49) So too in the case of Turkey, the war for independence was mostly fought in the name of the Caliph and

1 For the French original of this note, see Ismail Kara, *Müslüman Kalarak, Avrupalı Olmak Çağdaş Türk Düşüncesinde Din Siyaset Tarih Medeniyet (Istanbul: Dergah, 2018), 398. For a Turkish translation, see note 31 on page 397 of the same work.*

the “nation.” (Kara, 2008; Çarıklı, 1967) In fact, Said Halim Pasha even helped collect funds for War of Independence while in Italy. (Işık, 2018: 24) As such, it is with an allusion to these revolts that the essay begins its very first sentence. Nonetheless, the change in political environment meant that when Mehmet Akif would soon translate the text into Ottoman Turkish he would omit the section critiquing national sovereignty.

Les institutions politiques dans la société musulmane (The Political Institutions of Muslim Society) was published by Said Halim Pasha while in exile in Rome in 1921. It was then published a year later posthumously in Paris in the journal *Orient et Occident* under the title *Notes pour servir à la réforme de la société musulmane*, (Notes to Serve Towards the Reform of Muslim Society).” It was then translated by Mehmet Akif in the magazine *Sırat-ı Müstakim as İslam’da Teşkilat-ı Siyasiyye* (Political Institutions in Islam) in 1922. Recently, another Ottoman translation by Celal Nuri was also discovered, one which had kept the section “National Sovereignty” earlier erased by Mehmet Akif. (Özalp, 2004: 241-258) In 1927, the text was further translated into English by Marmaduke Pickthall, the famous translator of the Quran, in *Islamic Culture: The Hyderabad Quarterly Review*, of which he was the editor at the time. Pickthall then also ensured its translation into Urdu in 1928 in the magazine *Darul Ta’leef wa Tarjuma*, translated as *Khudah ki badshahat* – the Kingdom of God. (Sherif, 2017: 25) The translation was done by Pickthall’s close friend, Syed Hashmi Fareedabadi, and Pickthall wrote the essay’s foreword. It is very likely that these English and Urdu translations influenced perhaps the two most prominent theoreticians of the Islamic state after Said Halim Pasha: Mohammed Asad and Abul A’la Maududi. Pickthall handed over the editorial responsibilities of *Islamic Culture*, the journal that published the English translation, to Mohammed Asad, who would later go on to become Pakistan’s first foreign minister and write his famous work on the Islamic state, “The Principles of State and Government in Islam.” Maududi was also familiar with Pickthall at this time, translating a speech he gave in Bombay into Urdu, meaning it is also highly likely that Maududi was also familiar with Said Halim Pasha and read his last article. Therefore, it is likely that Said Halim Pasha’s influence on Islamism after him is highly underrated.

A reading of *Les institutions politiques* demonstrates that the essay consists of three main and interconnected topics: the Sharia as the natural law, a critique of national sovereignty and an argument for the constitutional

Islamic state. While I will ultimately focus on the last of these, it is important to first introduce the treatise's two other main topics as it is only after he establishes a scientific basis for the Sharia and critiques national sovereignty that the Pasha turns to Islamic governance in the essay's final and shortest portion.

The first main topic of *Les institutions politiques* is the argument that the Sharia contains "those moral and social laws whose source is nature itself." I argue that Said Halim Pasha makes a two-step argument for the Sharia as a natural law: an ontological argument followed by an epistemological one. Said Halim Pasha argues that because the Sharia's laws manifest from the divine will, they are permanent and independent of the human will just like the laws of nature. This is an ontological argument that the Sharia's natural laws are as natural as the physical laws of nature due to their shared origin. Ultimately, because the Sharia is based in the Divine Will, the Sharia granted Muslim society the highest possible level of happiness and solidarity. Indeed, the Sharia is not just a natural law, but the natural law and the only means for humans to reach these natural laws in society and morality. He then moves to the argument's second step: the epistemological argument. While both physical laws and the Sharia's social laws share the same origin, they differ in how humans obtain knowledge of them. While human reason can reach the natural physical laws purely through observing the world around it, it cannot independently reach the Sharia's natural moral and social laws, as humans are unable to look within themselves without personal biases. Humanity as such required revelation to know these natural law, this being the sole difference between two types of natural laws.

The rest of the essay makes it clear that Said Halim Pasha's concern here is to combat the impression that the Sharia opposes science and has led to Muslims' decline. In the section "The Period of Decline," he presents his own decline theory, attributing the Muslim world's decline to the ulema's "scholasticism," that is, becoming a class of specialists focused solely on religious studies to the detriment of the other sciences. This abandonment of science inevitably meant a decline in Muslims' material prosperity, which is solely based on a nation's technical ability and industrial capacity. As such, would-be reformers, ignorant of the Sharia's encouragement of science, witnessed Muslims' material poverty and believed their aim of independence and reform could only be had by abandoning the Sharia. However, given

that the Sharia is a natural law, actually the only true “scientific” way is to follow the Sharia’s guidance in the realms of society and morality. This is the essay’s central argument and one the Pasha returns to in different forms time and time again throughout. It should now be clear that the treatise’s main aim is to formulate an Islamic response to positivism and its glorification of science over religion. This should be understood within his context, as there was a wide 19th century consensus on the need for science, industry and education to protect the Ottoman domains. This consensus is nicely summarized by the name of a recent thesis tile by Yalcinkaya: “Their Science, Our Values”: science, state and society in the 19th century Ottoman Empire.” Indeed, Yalcinkaya argues that this approach of “their science, but not their values” is constitutive of nineteenth century Ottoman and Turkish discourse as a whole, and that these discussions on the sciences were inseparable from concerns regarding social order. (Yalcinkaya, 2010:1) It is this within context that Said Halim Pasha attempted to establish a scientific basis for the Sharia’s sovereignty.

The essay’s second main topic is a critique of national sovereignty. Said opens the section by lamenting that his age’s intellectual class wanted to replace the Sharia with national sovereignty, which they believed to be the reason for the West’s material prosperity. However, he argues that the West’s material prosperity is due to their knowledge of science, actually in spite of their social and political conflicts. In his view, national sovereignty is but an old phenomenon with a new name; nothing more than the descendant of the West’s preceding sovereignties of the Church and Monarchy. Like the Church and Monarchy, this sovereignty has no real basis and cannot command moral respect. As such, it can only uphold its self-ordained power through violence. He further critiques national sovereignty on the basis of the idea of human’s possession of “natural rights,” and on the basis of the classic “tyranny of the majority” problem. He argues that national sovereignty in fact often means nothing more than a small majority enforcing its will on a large minority of almost the same size, dooming such governments to always make unwise decisions.

Said Halim Pasha’s above critique of national sovereignty should also not be misunderstood as an outright rejection neither of the nation, nor nationalism. Indeed, he not only makes it clear at the end of the section that the national will must be afforded some respect and consideration, but his views on the “nation” and nationalism are more complex than they

may initially seem. On the one hand, while discussing the argument that the Caliphate could only belong to the Arabs (more specifically those of Quraishi descent), he argues that this was necessarily a misunderstanding of the *hadith* given that Islam did not recognize any racial discrimination, but rather established full equality and brotherhood. (Said Halim Pasha, 2019: 127) On the other hand, we find him in one of his essays explicitly calling nations as the best form of classifying human groups, writing,

Therefore, this form is naturally the convenient one for revealing and realizing the Islamic truths in the most perfect way...One day, humanity will understand the most true and beneficial type of nationalism by the means of Islamic principles. It is a great mistake to see Islam as contrary to every kind of nationalism." (Duran, 2011:124)

The contradiction can be easily resolved however with the phrase "every kind of nationalism," and the fact that this beneficial nationalism is something only realizable "one day" in the future. Duran however misunderstands this passage as an implicit recognition by Said Halim Pasha of the nation-state system, thereby jumping from the nation to the nation-state. (Duran, 2011) However, Said Halim Pasha outright rejects the nation-state system in *Les institutions politiques* on the basis that it claims sovereignty, which can only truly belong to God (and his natural Sharia by extension). His point seems to be that while the overall framework of Islamic brotherhood can recognize the existence of Turkish, Arab, and Kurdish nations as separate groups, this does not entail their independent sovereignty. Therefore, while Said Halim Pasha did not reject the notion of "nation" outright, but rather the concept of its sovereignty as the basis for the state. In other words, the offensive word in national sovereignty is not "nation," but "sovereignty."

At this point, we should place Said Halim Pasha's critique of national sovereignty in its context. Specifically, we argue that his critique of national sovereignty can be understood as part of contemporary attempts to establish social harmony or "solidarity" in place of what they saw as the West's social and class struggle. Said Halim Pasha shares with thinkers such as Namik Kemal a longing for a harmony and opposed the understanding of the political as a clash of opposites, what we today might call the Schmittian friend-enemy distinction. Both Kemal and Said Halim see this harmony as ensured by the Sharia. They were arguably also influenced by contemporary western writings on Corporatism. Corporatism is the idea that society's basic unit is not the individual, but different corporate groups, with the relationship between these groups often explained through the metaphor of the human

body with its different organs each fulfilling different functions towards a single aim. (Wiandra, 1997: 28) In this respect, the Pasha's corporatism is not too different from that of Ziya Gökalp, considered by many to be the main ideologue of the Kemalist Revolution, as both are ultimately attempts to build "national" harmony. However, Said Halim Pasha vociferously critiques Gökalp's attempt to do so on pre-Islamic Turkish ethics, rather than the Sharia.

In fact, I argue here that Said Halim Pasha's attempt to argue for social harmony through the Sharia can largely be understood as a response to Durkheimian sociology, of which Ziya Gökalp was a proponent at his time. Durkheim's aim was to essentially build a quasi-scientific explanation for the ideas of "solidarity" prevalent in France and the Ottoman Empire at the time. He believed that modernity's "anomie" (what Marx calls alienation) caused social dislocation and as a result it is "the law of the strongest which rules, and there is inevitably a chronic state of war, latent or acute." In response, Durkheim theorized his famous mechanical/organic solidarity distinction, arguing that it was society's obligation to end this situation by creating a moral organic solidarity based on guilds working as a single public institution. Recep Şenturk, in his article on Late Ottoman views of fiqh and the social sciences, also reads the Pasha's critiques of Western society as a response to Gökalp's project of combining fiqh and the social sciences. It is worth mention that, though erased in the Ottoman translations, Said Halim Pasha referenced "dabbling sociologists" in the French original. (Simpkins, 2021: 4) This reading would allow us to explain Said Halim Pasha's focus on Islamic brotherhood, which plays, *mutatis mutandis*, the same role of building organic solidarity as labor unions do in Durkheim's thought. This could explain why in one part of the essay he argued that fiqh was "a discipline... which corresponds to the experimental method in the domain of the positive sciences." (Simpkins 2021: 63) In his context, it was crucial to find a [quasi-]scientific basis for the Sharia to compete given the belief that "scientific knowledge would lead subjects to appreciate their state, rendering them obedient." Having laid this basis, Said Halim Pasha then turns to more mundane questions of the Islamic state's make-up.

Body of Essay: Said Halim Pasha's argument for the Islamic State

Said Halim Pasha starts the section "The Muslim Political Regime" by drawing some features of the Islamic "state" in broad strokes. He argues that the fact that every Muslim individual has the duty to ensure their government applies the Sharia, means they have an incontestable right to observe government, which requires it to possess a representative nature. While he does not refer to it by name, this is essentially the tenet of *al-amr bil-ma'ruf wa al-nahi 'an al-munkar* (commanding the right and forbidding the wrong). Nonetheless, because Muslim society is bereft of the West's social conflict, representation will naturally be manifested differently. While national representation must have enough power to control the government and ensure it applies the Sharia, the right of legislation must remain out of politicians' hands.

According to the Pasha, just as it is competence which allows a doctor to treat an individual's health, so too can lawmakers only pass laws, which treat an entire nation's health, by virtue of their competence: knowledge of the Sharia. Nonetheless, they should be elected so the nation trusts them as virtuous. The Head of State must have significant enough power and independence to fulfill his role of overlooking the system as a whole. The position must, naturally, be held by one person who is elected by the nation. The Head of State is responsible to both Parliament and the Muslim nation, though it is the Muslim nation which possesses the right to sack him if he is seen as incompetent or not fulfilling his duties (though he does not mention how). He closes the essay by detailing what such a system would not need: political parties or a senate. He sees political parties' existence as entirely due to the antagonisms and class struggles within Western society. Furthermore, Parliament would consist of a single chamber, as he sees the Senate (literally the House of Lords) as an institution designed to protect aristocratic interests against the populace's excesses. Given that Islamic society has no aristocrats in his view (as the wealthy in Muslim society do not possess a class consciousness or project), it thus has no need for an Upper Chamber. These institutions all possess the necessary independence to fulfill their roles and are united in their goal of serving the Sharia.

Here two important points should be made as their supposed absence in the treatise have been used to argue for categorizing Said Halim Pasha as a "modernist." These elements are the caliphate and the ulema, perhaps the

cornerstones of classical Islamic political theory, which we will discuss in turn. While Said Halim Pasha supports a strong head of state, no mention is made of the Caliph by name. Some have used this to argue that the Pasha in fact opposed the Caliphate or saw it as marginal. Guida goes so far as to liken him to Seyyid Bey, who would crucially argue on the floor on the Turkish parliament in 1924 in support of abolishing the Caliphate. (Guida, 2007: 117) However, even if this view could possibly be understood from this work, the claim quickly becomes untenable in light of his comments on the Caliphate in his memoirs, to which he dedicates a whole chapter. In his memoirs, *L'Empire ottoman et la Guerre mondiale* (The Ottoman Empire and the World War), the Pasha attributes the Pan-Islamic solidarity for the resistance led by Mustafa Kemal against the British to the Ottomans' holding the Caliphate. (Said Halim Paşa, 134) While on Malta, the Pasha also wrote letters to three Western heads of state, in which he warned that their attempts to occupy Istanbul would fail, as the Ottomans had a mission in the world, presumably as the seat of the Caliphate. (Bostan, 1992: 117) In another work, Said Halim Pasha also clarifies that he does not recognize the religious/secular binary, writing that by penetrating into all human actions, [Islam] rejects the distinction between the profane and the religious. ... "In the Prophet's law, the religious institution and the state are one. Neither can be separated from the other." He then specifically compares this to Jean-Jacques Rousseau's concept of "civil religion" in *The Social Contract*. (Said Halim Paşa, 122) Therefore, he clearly rejected the religious/secular binary and saw the Caliph or head of state as a neither solely religious, nor secular institution.

How then can we understand the lack of a direct mention of the Caliphate in his treatise? Perhaps the strongest explanation here is the essay's nature. In the closing pages, the Pasha clarifies that the system he outlined was not meant for any one country, but rather was designed to be applicable to any Islamic country, and that members of particular countries would have to write more detailed constitutions based on their country's particularities. Even more specifically it could be because he actually did not have the Ottoman Empire in mind while writing the treatise, but rather Egypt given the aforementioned handwritten note sent to Egypt. Given his statements on the Caliphate in his memoirs, and the fact that the debate over the Caliphate had not yet started in earnest during his lifetime, it is likely that he simply took it for granted that the institution would continue.

As for the argument that the Pasha gives no room for the ulema in his system, it can be outright rejected based only on a close reading of this text. Gücin claims that “Said Halim did not articulate a well-defined and functionally positioned room for the ulema... within his desired regime.” (Gücin, 41) However, in the section “Right of Legislation,” Said Halim explicitly makes it clear that the right to legislation must belong to the jurists (*légiste*). Though the word *légiste* is admittedly ambiguous, he makes it clear that their technical competence is their knowledge of the Sharia and defines them as “that class of specialists who are engaged in study of the Sharia,” as clear a definition of the ulema as possible. This is also fully in line with his earlier comments on fiqh’s objective knowledge of the moral and social realms. The most likely explanation is that the Pasha’s intention of ulema with the word *légiste* the Pasha was lost in back-translation to Ottoman, especially the Nuri translation, which significantly redacts this section.

Is Said Halim Pasha’s state a modern state or even a state at all?

It can be seen in the above section that there are significant “modern” elements in Said Halim Pasha’s views on science, education and his aim of providing a scientific basis for the Sharia. However, can the same be said with regards to his conception of the state? Before turning to Hallaq, it is worth consulting some current discussions on modernity in Ottoman studies. Rifaat Abou-El-Haj, the pioneer in arguing for the early-modern Ottoman state, argued that the late seventeenth century marked the Ottoman Empire’s transition into an early modern state, one of the main characteristics of which was a growing separation between the state and the ruling class. (Abou’l-Haj, 1991: 7) Baki Tezcan, one of Abou-El-Haj’s students, then attempted to close the difference between the “early modern” and “modern,” by arguing that both periods saw similar sociopolitical developments in limiting royal authority and expanding the political nation, with the global expansion of markets leading to commoners having larger influence on political decisions. (Tezcan, 232-233) Sariyannis sees this as corresponding to the development of a Weberian rational bureaucracy. (Sariyannis, 2013: 114) Sigalas argues that, in fact, a double conceptual and structural change happened, as the concept of “power” transformed to “community,” and power itself became “secularized,” now founded on society rather than the charisma of the ruler or his office. (Sariyannis, 102) As such, the Islamic state espoused by Said Halim Pasha can be usefully thought of as “modern” in terms of its

clear separation between the “state” and the “ruler,” now called the head of state, and power’s legitimacy clearly residing with the “Muslim nation.”

Nonetheless, a great degree of ambiguity still remains in the “modernity” of his conception of the state. Mardin, while writing on Namik Kemal’s political theory, notes that Kemal does not truly differentiate between the “state” and “government.” (Mardin, 300) This he traces to Islamic political thought not recognizing an independent existence for the state. Rather, the “state,” or more accurately the government, only exists to serve a pre-existing community, whether that is the “nation,” the “Ummah,” or the “Muslim nation.” (Mardin, 302) While it is not entirely clear, it seems that Said Halim Pasha, like many of the Young Ottomans, did not conceptualize government as separate from society. (Mardin, 345) Indeed, his belief that political institutions are products of the societies they serve, not only guides the entirety of the text, but is reflected in the original title itself (the Political Institutions of Muslim Society). Interestingly enough, though Said Halim Pasha himself uses the word “*e’tai*” or state in French here and in his memoirs, the Ottoman translations mostly avoided it. While mentioning the governance of states, Celal Nuri translates it as “*idare-i diivel*” using the Ottoman/Arabic plural form of *devlet* (the power of the word *devlet* is mostly in the singular), whereas when translating the chapter heading “Head of State,” he uses the word *hükümet* or government instead. This speaks to the degree of ambiguity among the Ottoman audience with regards to the “state,” whereas modern Turkish translations in comparison clearly use the word *devlet* throughout the text.²

Furthermore, events from his political life and his writings show that he wanted the Ottoman “devlet” to retain a more flexible imperial model. While Sharif Husayn had long resisted the Young Turks’ centralization efforts, tensions boiled over when they attempted to replace him and extend the Hijaz railway from Medina to Makkah, with the Sharif instigating a Bedouin revolt in response. Talat Bey, the Interior Minister, wanted to send an army to replace the governor by force, but Said Halim Pasha played a crucial role in convincing them to take a more conciliatory route. He later wrote that “The old, decentralized model Ottoman political system is better suited to the realities of Muslim countries than the European, centralized model of the Tanzimat.” (Şeyhun, 187) This is further confirmed in his memoirs

2 See for example Özalp, *Said Halim Paşa Bütün Eserleri*, (Istanbul: Anka, 2003), 216, 249-250 uses *devlet başkanı* instead of *reis-i hükümet*, that is “head of state” rather than “head of government.”

where he writes that it was Turkey's duty as the Caliphate to retake the Arab lands (*cezire*, short for *cezire ul-arab*, or the Arabian Peninsula), and that neither Turkey, nor the Arab world could break this tie. (Said Halim Paşa 133) Now that we have established the ambiguity in the "modernity" of Said Halim Pasha's conception of the state, let us now read this ambiguity through Hallaq's "Impossible State" thesis.

Was Said Halim Pasha's State Possible?

One of the most important debates in Islamic studies today is the compatibility of Islam and the modern state, mostly centering around Wael Hallaq's book "The Impossible State," where Hallaq argues that the Sharia and the modern state are "both an impossibility and a contradiction in terms." (Hallaq, IX) This incompatibility is not due to Islam's inferiority to modernity, but rather since "the inherent self-contradictions entailed by a modern Islamic state are primarily grounded in modernity's moral predicament." (Hallaq, XI) As such, Hallaq utilizes Islam and the social system the Sharia built over centuries to critique modernity's moral poverty.

Hallaq defines the modern state as possessing five essential elements, which "are substantively, methodologically, and theoretically inseparable from one another." (Hallaq, 23) They are,

- (1) its constitution as a historical experience that is fairly specific and local;
- (2) its sovereignty and the metaphysics to which it has given rise;
- (3) its legislative monopoly and the related feature of monopoly over so-called legitimate violence;
- (4) its bureaucratic machinery; and
- (5) its cultural hegemonic engagement in the social order, including its production of the national subject. (Hallaq, 23)

While Said Halim Pasha's conception of the state would meet some of these criteria, as the Late Ottoman Empire had already long attempted to develop a greater monopoly of violence and more rational bureaucracy since the Tanzimat era, (Hanioglu, 2008: 203) Said Halim Pasha is also clear that his state does not possess sovereignty independent of the Sharia. This is crucial as Hallaq argues that "these form-properties are structurally and organically interrelated, that a change in one will entail a change in the others." (Hallaq, 36) Furthermore, it is arguably the state's claim to an almost divine-like will, a fictitious ex-nihilo act of self-creation that truly distinguishes the modern state for Hallaq. Hallaq here is relying primarily on Carl Schmitt, who famously argued that "all significant concepts of the modern theory of the state are secularized theological concepts." (Schmitt, 2005: 36)

In contradistinction to the modern state, in which “it is the state that ratifies divine will, not the other way round,” (Hallaq, 30) Said Halim Pasha is abundantly clear that the Parliament in the Muslim state cannot make law, but only advise the executive branch, as law-making must remain the ulema’s prerogative. Indeed, in his own political career, the Young Turks could only pass the most flagrant violations of the Sharia after the Pasha had been sidelined during the war. (Şeyhun, 10) Interestingly enough, Hallaq and Halim Pasha both even use the same metaphor to argue for law-making to remain out of the state’s hands: a “living” or “alive” law. Hallaq says “It is a salient feature of that society that it lived legal ethics and legal morality, for these constituted the religious foundations and codes of social praxis. To say that the moral law of premodern Muslim societies was a living and lived tradition is to state nothing less than the most obvious.” (Şeyhun, 56) Along a similar vein, Said Halim Pasha says that jurists must thoroughly know the people’s soul and temperament, for “It is only in these conditions that the jurist will make, so to speak, living laws, which will be simultaneously loved, feared and respected. Otherwise these laws will only have the value of police regulations in the nation’s view.” (Simpkins, 75)

This highlights just how much Said Halim Pasha and Hallaq agree on. The central element in Hallaq’s critique of the modern state and modernity as a whole is its moral destitution. It is because the Sharia cannot but be moral, and the state cannot admit the moral, that the two are fundamentally incompatible. As Hallaq writes, “Any moral argument adduced in politics and in the framework of state domination is, in the final analysis, nothing but a political argument, a way to legitimize “political ambition.” (Hallaq, 93) However, *Les institutions politiques* is full of references to the moral.³ Indeed, both argue that the Sharia is superior precisely because its moral factor means it rises above being mere laws or police regulations:

At the base of these sovereignties, we always find the same principle: force. The result is a constant struggle for power, in which social hatreds escalate and fragment national power. These sovereignties are therefore prerogatives imposed by force and not principles which command respect in themselves by the mere prestige of their intrinsic moral value; therefore they represent usurpations, that is to say injustices. (Simpkins, 54)

Said Halim Pasha would undoubtedly agree that that the modern state, as Hallaq understands it, and the Sharia are a “contradiction in terms.” The

3 I counted 53 uses of the word “moral” in the text.

Pasha, who sees political forms as dependent on the societies they serve as earlier mentioned, would likely attribute the modern state's self-perception as existing above and separate of society as reflecting Western society's endemic conflicts necessitating a neutral arbiter. Meanwhile, Muslim society's organic ties of Islamic brotherhood and common aim of the Sharia means that there is no need for a state to stand above the community. Furthermore, he would also likely see modern states as incredibly violent, and a violence only necessitated by the degree of the West's social disharmony. He would further agree with Hallaq's critique of the state's sovereignty as almost reaching a divine-like status, a claim it can only uphold through incredible amounts of violence. Indeed, his critique that national sovereignty is simply another iteration of the previous sovereignty of the Monarchy and the Church can be understood without too much difficulty as a less sophisticated view of Scmitt's aforementioned argument that all concepts of the modern state are secularized theological concepts.

The above similarities underline that one of the most important critiques of Hallaq has been his assumption that when Islamic activists and intellectuals use the word state they mean the modern state as he depicts it. As Al-Azaami articulates, "But he completely ignores the fact that on some level these activists are merely trying to articulate a notion analogous to the one he intends when he uses the expression "Islamic governance" throughout his work." (Al-Azami, 2014: 221) This is clearly the case for Said Haid Halim's employment of the word state in French (*l'état*), as the text demonstrates that he is thinking of something that be thought of as Islamic governance with modern attributes. Therefore, while his desired state is certainly not a modern nation-state, it is arguably an attempt to provide a modern Islamic "state," one whose sovereignty is based not on the nation or the ruler's personal authority, but the sovereignty of the Sharia and representation of the Muslim "nation."

While Hallaq does not expressly mention the Ottoman Empire in "The Impossible State," or any historical example for that matter, as the last Caliphate before the establishment of nation-states it is obviously important for his argument.⁴ Furthermore, he does depict in earlier works, for instance, the Mecelle, a late Ottoman drive to codify fiqh, as part of an overall stru-

4 For a critique of "The Impossible State," on the basis of the Late Ottoman Empire, see Said Salih Kaymakci, "Book Review: Wael Hallaq's 'The Impossible State,'" Maydan (Ali Vural Ak Center for Global Islamic Studies at George Mason University, December 18, 2015), <https://themaydan.com/2016/12/book-review-wael-hallaqs-impossible-state-said-salih-kaymakci/>.

gle between the forces of tradition and Westernization. Recent research, however, has instead argued for the Mecelle's consistency with Hanafi fiqh. (Ayoub, 2015: 121-146) This part of a larger trend within Ottoman Studies which increasingly complicates the traditional narrative which saw the Empire's modernization as a battle between "Westernizers" and "traditionalists/reactionaries," and emphasizes the degree to which Islamic discourse actually supported the modernization process.⁵ Hanioglu for example depicts this era not as some eternal battle between "radicals" and "reactionaries," but a battle between centralization and decentralization that was a much more mundane matter of survival. (Hanioglu, 203) Hanioglu also depicts the Young Turks not as radicals, but a conservative project in the literal sense of attempting to "conserve" the Empire. (Hanioglu, 150) This could help explain why there were not only the positivists who would subsequently influence Kemalism, but also prominent Islamic figures such as Said Halim Pasha, Elmalılı Hamdi Efendi, Mustafa Sabri and Said Nursi. (Işık, 27-28) All in all, we can understand the ambiguity of the modernity of Said Halim Pasha's state, by viewing it in terms of an attempt to create an alternative modernity. In that sense, his state is a "modern state," if we free "modernity" from meaning what we already know happened in hindsight, to an attempted Ottoman-Islamic "modernity," regardless of ours or Hallaq's views on its possibility.

Conclusion

On the verge of the establishment of nation-states in the former Ottoman domains, Said Halim Pasha, a former grand vizier of the Ottoman Empire and an Islamist intellectual wrote a treatise calling not for a secular nation-state, but rather an Islamic state with heavy influences of "pre-modern governance." Our analysis of the treatise has demonstrated that Said Halim Pasha thought he could make a scientific argument for the Sharia's sovereignty, and that by doing so the Muslim nation could re-establish a peerless social harmony that would continue to protect them from the West's social discord. While he did not deny the "nation" entirely, he did intend to ensure nationalism's subservience to Islamic brotherhood and the role of national will as secondary to the Sharia's sovereignty. After laying this basis,

5 Though covering an earlier time period, for an example of this literature, see Ali Yaycioglu, "Guarding Traditions and Laws—Disciplining Bodies and Souls: Tradition, Science, and Religion in the Age of Ottoman Reform," *Modern Asian Studies* 52, no. 5 (2018): pp. 1542-1603, <https://doi.org/10.1017/S0026749X1700018X>.

he then turns in the essay's last section to argue for a representative Islamic state divided between the executive branch led by an elected head of state who can be removed as necessary, and a legislative branch led by the ulema, who were also to be elected to ensure the people's trust in them. We further demonstrated here that the argument that his political vision implicitly accepted the nation-system or did not include the Caliphate and the ulema must be rejected.

We also showed that his vision both continued to have significant elements of pre-modern governance, such as a more flexible imperial model and legislation remaining in the ulema's hands, and modern attributes. If there was ever an Ottoman "Islamist" who agreed with the modern state it should be the grandson of Muhammad Ali, who wrote in French and worked with the Young Turks and wrote mere years before the Turkish Republic's establishment. Indeed, in some senses, Said Halim Pasha can be considered "modernist." (Kara, 409) For example, the word "scholasticism" was used by Young Turks to disparage the ulema.⁶ Furthermore, the degree to which the Pasha argues the Sharia is "scientific" itself almost reaches a degree of positivism. Nonetheless, we have also demonstrated the degree to which Said Halim Pasha's critiques of the West actually mirror Hallaq's critiques of modernity, specifically its amoral nature, incredible violence and false sovereignty, with both calling instead for a system of "lived laws." While these comparisons were obviously anachronistic, this deliberately provocative exercise was hopefully beneficial in demonstrating the complexity of the "transition" to a modern state that occurred in the late Ottoman Empire.

While Hallaq makes convincing arguments against the ethical compatibility of the modern state in an Islamic framework, he does not truly prove that his Islamist interlocutors mean the same thing by "state" when they use the word. Furthermore, a deep examination of exactly when and how this transition happened is a valuable exercise. This short essay suggests that even after the Ottoman Empire's collapse, there were many who did not support a state that claimed sovereignty independent of the Sharia. As Abou'l-Haj puts it, "the nation-state should instead be viewed simultaneously as representing a transitional object and as one of several choices for political organizing during set historical junctures." (El-Haj, 74) To be fair, Hallaq himself admits that "This is not to say that a form-property (of the

6 For example of Gökalp using the term, see Nurullah Ardiç, *Islam and the Politics of Secularism: The Caliphate and Middle Eastern Modernization in the Early 20th Century*. (Abingdon, Oxon: Routledge, 2012), 76.

state) in the present day cannot or will not become a content attribute, a mutative quality, at some point in the future... The future obviously can admit a wide range of possibilities." (Hallaq, 22) It is also worth remembering that the past could have admitted a wide range of possibilities.

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