

BOOK REVIEW

Mark Fathi Massoud's *Shari'a, Inshallah: Finding God in Somali Legal Politics*

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In the popular imagination, Somalia conjures images of civil war, terrorism, piracy—in short, chaos. It is one of the last places one would expect to be a laboratory for rule of law. *Shari'a, Inshallah* upends that stereotype by showing how law and religion play an active and central role in building stability, and rule of law, in the country. In particular, it shows how law and religion interweave in shaping Somali political history, and how Shari'a has been an unavoidable force in building legitimacy for Somalia's political actors. Every political actor and participant in civil society has had to contend with Shari'a in order to assert legitimacy, drive political programs and agendas, advocate for rights, rule, and resist. Although *Shari'a, Inshallah* focuses on the Somali experience, it carries lessons for the greater Muslim World.

Shari'a, Inshallah is the first major attempt to study modern legal politics in Somalia and Somaliland. Moreover, this work adopts an ethnographic approach that studies not just the law but also the meanings and understandings that Somalis give to and produce from the law. In addition to archival research, the author, over three years of fieldwork, conducted hundreds of personal interviews and ethnographic observations of dispute resolution activities in courts, legal aid centers, and workshops organized by international and local groups. Furthermore, the author gives attention to the different colonial experiences in greater Somalia. Somaliland was colonized by the British while southern Somalia was colonized by the Italians, and both produced unique legal systems that have shaped Somalia's post-colonial experience.

Shari'a, like Somalia, also has its own misconceptions. Shari'a, broadly speaking, is God's will, law, and moral framework for human beings. In the legal context, it is God's eternal and immutable law—it is the "ideal law." Precisely because Shari'a is seen as God's law, and hence ideal law, it is a potent tool in legal politics in the Muslim World generally, including Somalia. *Shari'a, Inshallah* provides a case study in the legitimizing power of Shari'a, and the hope it carries in establishing rule of law in Somalia.

In Somaliland, British colonial administrators had to contend with, and use, Shari'a. While Somalis had for centuries relied on Shari'a and customary law (*xeer*) to resolve disputes, the British established courts that sought to limit the power of religion. However, when confronted with resistance to their rule,

the British turned to Shari'a for legitimacy, employing scholars from Mecca, Yemen, and Sudan to argue on their behalf. That Shari'a is used to legitimize colonial projects is not a new phenomenon, and it shows Shari'a's enduring power and appeal to the population. For example, Napoleon Bonaparte, in his conquest of Egypt, spoke in Islamic terms to appeal to the local population, and used the scholars of Al-Azhar to legitimize French presence and quash resistance.¹

Moreover, the legacy of compartmentalizing Shari'a as a means to assert greater state authority remained in post-colonial Somalia. The colonial experience left a legacy of different legal systems: colonial law (both British and Italian), Shari'a, and customary law. Constructing the nation-state, at least according to conventional thought, meant that the state had to consolidate the plural legal systems, and make state law supreme. That meant contending with Shari'a.

Here, post-colonial Somali governments contested and, in many ways, usurped Shari'a, both to contain its influence and as a vessel carrying the state's agenda. This was exemplified during Said Barre's regime, which attempted to fuse socialism and Islam into a unique Somali authoritarianism.

Central to the Somali experience was the rise of the Islamic Courts Union (ICU) in the years following Barre's demise in 1991. The various local Shari'a courts navigating the civil conflict of those years merged to form the ICU. The ICU subsequently defeated and expelled the warlords from power, and effectuated a brief peace in Somalia. But, in the era of the War on Terror, the threat of an Islamic state in Somalia led to an US-supported Ethiopian invasion of Somalia and the collapse of the ICU.

However, the experiment of the ICU carries important observations for the larger Muslim World. First, the ICU, at its core, was a grassroots movement, and its invocation and application of Shari'a was critical in garnering the support of Somalis. This allowed for acceptance of its judicial decisions, which in turn helped the ICU establish stability in Somalia. Furthermore, in Western Europe and colonial North America, the state-building process relied on courts invoking God's will. This process was mirrored in the experience of the Shari'a courts during Somalia's "stateless years." Islam was the only formidable institution remaining, and the ICU was "a seedling of stable governance and the rule of law."

Second, the ICU's judges operated in the context of legal pluralism. Under the fold of the ICU were Sufis, moderate judges, and more militant ones. Similarly, the classical Islamic legal system, with its many schools of thought, was a pluralistic legal system.² However, in the colonial and post-colonial era, the central government in Somalia sought to unify the different legal systems.

1. Andrew Roberts, *Napoleon: A Life* 174 (2015).

2. Asifa Quraishi-Landes, *Islamic Constitutional: Not Secular. Not Theocratic. Not Impossible*, 16 RUTGERS J.L. J.L. AND RELIGION 553 (2015).

A necessary condition for the success of that effort, where Shari'a is strong, is that the state elevate its own interpretation of God's Will. To monopolize Shari'a would be to equate state law with God's will.³ Shari'a however, historically, and as seen in the case of Somalia, served as a check to state power. The diversity of legal interpretations, and the essential equality of their validity, is a key feature of Shari'a's role in the context of "rule of law."

For instance, women activists in Somaliland utilized Shari'a to push for interpretations of God's will that expanded rights and protection for women. By appealing to sheikhs who agree with their views, the women activists have found some success in curtailing the practice of female genital mutilation. This is possible due to different interpretations of Shari'a, which enables a sort of "marketplace of ideas," which allows different views of Shari'a, including those of the women activists, to find support. Thus, where religion and law are intimately intertwined, the notion that the law must be centralized is called into question.

Shari'a, Inshallah traces the story of law, politics and Islam in Somalia and ultimately presents hope that rule of law is possible through Shari'a. The author's research methodology and fieldwork, including interviews with local lawyers, sheikhs, activists, and government officials, gives the reader valuable insight to the thinking of Somalis living through the process of law and state-building. The interviews reveal that Shari'a remains a powerful force and a source of hope for Somalis that rule of law is possible. It is a case study in the role Shari'a plays in legal politics in Somalia, but its lessons are not localized to Somalia. The pattern of Somali legal politics is present elsewhere in the Muslim World, where the state-building process continues to grapple with Shari'a. People throughout the Muslim World call for Shari'a as an antidote to the problems facing their countries. In many respects, they are calling for the rule of law. In sum, *Shari'a, Inshallah* provides an important and useful case study for any undergraduate or graduate course, and levels beyond that, seeking to study the interaction of Shari'a, law, politics and society.

3. KHALED ABOU EL FADL, ISLAM AND THE CHALLENGE OF DEMOCRACY 36 (2004).