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## Islamic Democracy

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Two law professors offer very different assessments of sharia.

Reviewed by Geneive Abdo  
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### *THE FALL AND RISE OF THE ISLAMIC STATE*

By Noah Feldman | Princeton Univ. 189 pp. \$22.95

### *ISLAM AND THE SECULAR STATE*

*Negotiating the Future of Shari'a*

By Abdullahi Ahmed An-Na'im | Harvard Univ. 324 pp. \$35

For more than 20 years, Islamists in Lebanon, Palestine, Egypt and other Muslim countries have campaigned for popular support by presenting sharia, or Islamic law, as the antidote to authoritarian rule, injustice and repression.

Westerners often wonder how Muslims possibly can believe such claims. We recall the [Taliban](#) blowing up ancient statues and preventing girls from going to school in Afghanistan. We think of authorities in Saudi Arabia and Iran cutting off hands for theft and stoning women to death for adultery.

Now two distinguished American legal scholars have published books that reflect these sharply contrasting views of Islamic law. One argues that sharia, properly understood and fairly administered, could be a constructive way for religion to find its place in a modern Muslim state. The other says the imposition of sharia by state authorities is inherently repressive and contrary to the Koran's insistence on voluntary acceptance of Islam; he urges Muslims to see a secular state as the best guarantor of freedom for people of all faiths.

In an apparent role reversal that may surprise readers, it is Noah Feldman, a Jewish professor at [Harvard Law School](#), who attests to the virtues of sharia, while Abdullahi Ahmed An-Na'im, a Sudanese-born Muslim professor at Emory University School of Law, warns of its dangers.

Yet their positions are not so unexpected to anyone familiar with their careers. Feldman is known for helping to draft an interim constitution for Iraq and for arguing that an Islamic state is, at least in theory, compatible with democracy. An-Na'im is an independent-minded intellectual who has raised sensitive issues (such as his belief that interpretations of sharia have led to discrimination against non-Muslim minorities in the Arab world) that many Muslims and their advocates would prefer to keep out of public debate.

Both authors help to explain why sharia, which developed during the early years of the Islamic period, from the 7th to the 13th century, is so appealing to Muslims in the modern world, and both attempt to define sharia in all its complexities and ambiguities. Correcting a common misperception, Feldman and An-Na'im agree that the word doesn't refer simply to a body of medieval Islamic laws. Sharia, Arabic for "path," is a broad moral compass, a collection of principles to lead Muslims toward a sacred life. Sharia is also believed to be divinely inspired, since it derives from the Koran and hadiths, the oral sayings of the prophet Muhammad.

Muslims today fiercely debate whose opinions count in interpreting sharia, with some of the sharpest conflicts

occurring over gender inequality. It is nearly impossible, for example, for a woman to initiate a divorce without suffering severe financial penalties in most countries where sharia is the guide for family courts. Many Muslim women believe this law is pre-modern and are working to alter it through their legislatures, but many (male) religious scholars oppose legislation that would change the traditional understanding.

The crux of An-Na'im's *Islam and the Secular State* is that Muslims should be allowed to practice their faith as they see fit and should comply with sharia, but voluntarily. The call from Islamists to impose sharia with the full power of the state will only lead to totalitarianism, he argues. To bolster his claim, he notes that the Koran never mentions the idea of a state and does not prescribe a particular form of government.

"The premise of my proposal," writes An-Na'im, "is that Muslims everywhere, whether minorities or majorities, are bound to observe Shari'a as a matter of religious obligation, and that this can best be achieved when the state is neutral regarding all religious doctrines and does not claim to enforce Shari'a principles as state policy or legislation."

Without sharia as the supreme law, there can be no truly Islamic state, at least as Islamists see it. An-Na'im's proposal for a significant degree of separation between religion and state not only flies in the face of the Islamist vision but verges on heresy to many Muslims. To An-Na'im, "Islam is the religion of human beings who believe in it, while the state signifies the continuity of institutions like the judiciary and administrative agencies." And "this view is fundamentally Islamic," he asserts, because Islam holds that "religious compliance must be completely voluntary" and because "coercive enforcement promotes hypocrisy . . . which is categorically and repeatedly condemned by" the Koran.

Feldman's argument in *The Fall and Rise of the Islamic State* is more mainstream than An-Na'im's in the context of contemporary Islamic thought, though many Western readers may view it as contrarian.

Feldman condemns the autocracies in many Muslim countries but argues that sharia is not to blame. On the contrary, he says, in the "traditional Sunni constitutional order," sharia was interpreted by an independent class of scholars who served as a check on tyranny, preventing rulers from exploiting religion to justify their political positions.

Feldman advocates for sharia as a potential way to help democratize Muslim societies, but he stops short of explaining exactly how this might be possible. As he notes, today's Islamists urge a return to the Islamic state but are not always keen on having truly independent religious scholars. He also has to reckon with the examples of several countries in which the restoration of powerful religious scholars has been problematic, to say the least. In Saudi Arabia, he notes, the scholars who interpret sharia "are more than scholars; they are active, quasi-tribal allies of the Sa'ud family" and "actually part of the ruling class." And in Afghanistan under the Taliban and Iran after the 1979 revolution, religious authorities assumed so much power that, once again, there was no effective check on tyranny.

Feldman's cautiously optimistic conclusion is that sharia "has the capacity to function as a tool for the fair administration of justice. But like any other legal system, it cannot do so if it is not embedded in a constitutional order."

Ultimately, these books are more than contrasting legal arguments; they represent the perpetual contest between practice and theory. An-Na'im's experience in his native Sudan and in the United States has bred the practical assumption that an Islamic state will lead only to tyranny, and that Muslims need a secular state in which to live their faith by their own free choice; for him, this is "the only valid and legitimate way of being a Muslim." Feldman is an ardent constitutionalist trying to show how, in theory at least, his democratic vision could be compatible with another country's traditions and institutions.

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most recently *"Mecca and Main Street: Muslim Life in America after 9/11."*

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