

Between the Islam of Orientalists and the Islam of Islamists: Wael Hallaq and a Third Debate

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Abstract:

This study seeks to present a complex critical vision regarding the reality of Islam through three opposing epistemic perspectives: the Orientalist discourse, which portrays Islam as a closed, unoriginal religious system; the Islamist discourse, or what is called political Islam, which imagines Islam as a system of statehood and seeks to transform the Sharia into a project of an ideological state governed by the mechanisms of modern power; and Wael Hallaq's reading, which offers a third alternative based on Sharia as a historical, functional, moral-legal system.

Thus, this paper concludes that Islam cannot be reduced either to political-ideological molds or to Orientalist representations. This conclusion is based on Hallaq's project, which seeks to lay new foundations for the essence of Islam and Sharia, wagering that Islamic Sharia is a moral system that seeks to organize social life and produce the moral self, not merely coercive legal systems. The attempt to impose modern state models upon it inevitably produces structural, moral, and political contradictions that destroy the Sharia no less severely than the distortions practiced by Orientalism.

Keywords: Islam, modernity, Orientalism, Sharia, Orientalists, Islamists.

Introduction:

The question "What is the reality of Islam?" has remained continuously posed in both Western and Arab intellectual circles. Though seemingly simple, this question hides behind it layers of epistemic and political representations. On one hand, Orientalism produced knowledge saturated with colonial hegemony, portraying Islam as an intolerant, rigid religion closed in upon itself, lacking rationality and institutional organization. On the other, Islamist movements of the twentieth century articulated a very different answer: that Islam is a universal, powerful religion demanding its right to political leadership and exclusive rule—reducing Islam to the project of an Islamic state.

Any serious and experienced researcher cannot fail to notice the structural and methodological parallels between these seemingly opposing representations. Thus emerges a new project, that of Wael Hallaq, a Canadian thinker of Palestinian Arab origin specializing in Islamic jurisprudence and Sharia. His attempt is to build a third debate that surpasses both Orientalist and Islamist reductionism, rethinking Islam through the centrality of Sharia as a moral system—not merely as positive law or a project of transnational political domination.

The importance of this discussion lies in addressing one of the most pressing questions in contemporary Islamic studies: how can Islam be read outside the binary of "heritage" and "modernity"? More precisely: how can Islam be approached correctly, on methodological and epistemic grounds that transcend the reductive dichotomy that confines it between tradition and backwardness on one side, and modernity and the nation-state on the other? Islam must be rethought from a universal position that questions the very structure of modernity itself—not from a subordinate or merely antagonistic standpoint.

Hallaq provides a dual deconstruction: on one side, exposing the structural dominance inherent in Orientalist knowledge; and on the other, dismantling the illusions of Islamists who imagined

the possibility of establishing an Islamic state within the framework of the modern state. From this standpoint, the problem of this study crystallizes in the following question: How does Wael Hallaq read Islam, and what purposes does this definition serve, especially in the context of modernity?

Sharia between Orientalist and Islamist Representations: Or the Question of What Islam Really Is

Since the nineteenth century, discussions about Islam have been tied to an unbalanced epistemic authority established by Orientalists on one side and Islamists on the other. While European Orientalism defined Islam within the framework of Western modernity, confining it to shallow binaries such as “backwardness/progress,” “West/East,” “First World/Third World,” it concluded that Islam is a closed religion with a Sharia that has been dead for centuries, incapable of adapting to modern life.

In contrast, Islamists sought to “modernize Islam” through the claim of implementing Sharia, yet by means borrowed from the very modern Western framework—namely the nation-state model. From their perspective, Islam is a progressive religion valid for all times and places, adaptable to contemporary needs, and sufficient for a good life.

Orientalist discourse cemented stereotypical images of Islam as an expansionist religious project, reducing it to fixed notions: a religion of violence, terrorist jihad, subjugation of women, polygamy, and so forth. These images fueled colonial hegemony. Islam was not the subject of neutral academic study but rather a field saturated with anti-Islamic European ideology serving to reproduce European superiority.

Islamist movements of the twentieth century arose as a reaction to colonial and modern challenges, believing in Islam’s governance over life and the necessity of Sharia’s authority over modern rule. Their discourse rests on dichotomies such as Islam vs. unbelief and ignorance; loyalty vs. disavowal; divine sovereignty vs. human sovereignty; the Caliphate vs. the tyrannical state; monotheism vs. polytheism. For them, Islam is a revolution against modern European ignorance, grounded in the principle of *hakimiyya* (divine sovereignty), where ultimate authority belongs only to God. Any attempt to vest sovereignty in humans constitutes polytheism and must be rejected. Since the modern state rests on the sovereignty of the people, it must be considered idolatrous unless subjected entirely to Sharia.

Thus, despite their differences, Orientalism and Islamism share the same vision and logic: 1) a criminalizing and adversarial stance toward the “other,” seeking to dominate and distort it; and 2) a modernist contextual logic: Orientalism as a colonial knowledge-power, and Islamism as a nostalgic emotional reaction that reproduces the same modern tools. It is here that Hallaq’s project begins, seeking a way beyond these two representations.

Wael Hallaq Against Orientalism: Or the Critique of Orientalist Knowledge

Hallaq’s project stems from a crucial question raised by Orientalist studies, especially Joseph Schacht’s works: *What is the reality of Sharia?* He realized it was not one simple matter but two entirely different phenomena, with modernity marking a dangerous turning point. Sharia split into two historical moments: the pre-modern (all Islamic history up to the nineteenth century) and the post-modern (everything after the 19th century).

Hallaq noted a dominant thesis in Orientalist writings: the “closure of the gate of *ijtihad*,” especially in Schacht’s work, which claimed that Islamic jurisprudence ceased developing after the fourth century AH, replaced by rigid adherence to tradition. This idea infiltrated Arab-Islamic thought, adopted by reformists like al-Afghani and Muhammad Abduh, and used to explain the so-called “decline of Muslims” by linking civilizational regression to legal stagnation.

But Hallaq argued this thesis is misleading. It raises two critical questions:

1. How did Sharia successfully govern Muslim life for over twelve centuries before modernity, if it was “closed” and stagnant?
2. Why did Sharia suddenly become “unfit” after the nineteenth century, despite having survived far greater challenges before?

Hallaq refutes the closure thesis, insisting *ijtihad* never ceased. Sharia remained flexible, constantly adapted to social needs through juristic mechanisms. The real change was not Sharia itself but the modern state, which stripped Sharia of its moral and normative functions, reducing it to codified, positivist law in service of colonial and modern frameworks.

Like Edward Said, Hallaq sees Orientalism not as neutral scholarship but as a discourse of power intertwined with colonial authority. It redefined Islam according to Western modern standards, portraying it as backward and pathological—thus justifying colonial domination. Orientalism, in Hallaq’s view, is not an independent field of study but an integral part of modernity’s project of power, serving its goals of control, profit, and expansion. All modern sciences, including Orientalism, were created to serve these ends.

Hence, Orientalism functioned as the epistemic face of political modernity, emptying Islam of its ethical core and reducing it to a distorted legal or cultural entity to be disciplined within modern frameworks.

Wael Hallaq Against Islamism: Or the Impossibility of the Islamic State

Hallaq believes the Muslims’ crisis deepened when they uncritically adopted the Western epistemic system. Islamism wagered on restoring Sharia by force, under the slogan of “implementing Sharia,” but accepted the framework of modern sovereignty and bureaucracy, where the state monopolizes legislation. This, Hallaq argues, contradicts the true nature of Sharia, which is based on divine sovereignty, legal pluralism, and decentralized authority.

Thus, Islamist thought offered no real alternative to modernity; instead, it reproduced it under an Islamic guise. Rather than reviving Islam’s moral experience, Islamists reduced Sharia to a political-theological ideology, subordinating it to modern state structures.

Political Islam adopted the nation-state as a tool of liberation from colonialism, but in doing so became captive to modernity itself. While seeking to legitimize political power through Sharia, history shows Sharia was for twelve centuries independent from state power, deriving strength from society, ethics, and divine sovereignty.

By forcing Sharia into the mold of the modern state, Islamists degraded it into rigid penal codes and surface-level punishments, transforming it into a version of modern instrumental rationality divorced from ethics. Thus, they compounded Sharia’s crisis, narrowing it to legalistic terms and betraying its ethical project.

The key question remains: If today’s Islamist demands seem to align with early Muslim practices, why does their restoration fail within the modern context?

For Wael Hallaq, the problem begins with the idea of combining the system of the modern state with the system of the Sharia, and he affirms that it is a false and impossible idea to realize, and that any attempt to establish a modern national Islamic state is nothing but an illusion, due to the sharp incompatibility between the two systems. On the one hand, any alignment based on some attribute or a nominal distinction attached to the modern state is mere superficial camouflage that changes nothing of its essence or nature; and the attached attribute adds no meaningful difference. This is because the modern state is not a neutral political apparatus that can be colored or dyed with a religious or national identity as we wish, but rather a structure based on the duality of “form and substance.” The form of the state is the institutional and procedural framework that does not change: a centralized bureaucratic apparatus, sovereignty,

law, legislative, executive and judicial institutions, a positivist legal system, and defined national geographical borders, etc. The form is what ensures the modern state its ability to survive and endure, regardless of the identity of those who run it or the ideological discourse that justifies its authority.

As for the substance, it is variable, comparable to a vessel that can be filled with different contents, taking its color from what is placed inside: liberalism, socialism, nationalism, democracy, or Islamism. Yet this substance does not change anything of the reality of the fixed form, for it remains governed by it and restricted by its limits. The state may be called Islamic or socialist, but its modern essence remains fixed, since it operates according to the logic of modern sovereignty and authority, namely, the sovereignty of the state over society and its monopoly over legislation, law, and legitimate violence.

Hence, Hallaq affirms that any attempt to establish what is called an Islamic state is an historical contradiction on several levels:

First: because Islam in its essence did not know the system of the state as such, being a modern European invention unknown to ancient societies — i.e., the nation-state with absolute sovereignty monopolizing power and knowledge, as in modernity.

Second: the historical Islamic system known to Muslims for centuries before modernity was a system of moral centrality and political decentralization, a society governed by Sharia and morality, which guided politics as a small part of it, but not controlled by it. Thus there is no Islam without a moral system protected by Sharia.

Third: Islamic Sharia did not know what is called positive law, for its constitution is the divine law derived from the Qur'an, and divine law cannot be placed on an equal or lesser level than human positive law.

All of this supports the idea of the falsity of the claim to an Islamic state, because the modern state, even if it carries an Islamic name or description, its Islamization remains a superficial slogan that changes nothing of its structural nature as an authoritarian bureaucratic machine. Therefore Hallaq states explicitly: *"The recourse to usages such as 'the Islamic state' (...) is not only an involvement in a thought that entails a historical contradiction, but also involves a misunderstanding of the structural and qualitative differences between the modern state and its predecessors, particularly what is called Islamic governance."*

To understand what Hallaq means by structural and epistemic differences, we present a quick comparison between what he calls the statist model and the Islamic model based on Sharia. We show these differences more clearly and concisely in the following table:

Difference	Type	Statist System	Islamic Governance
Nature of rule	Structural	Based on a centralized bureaucratic apparatus that imposes laws on society in the name of the state, with a secular positivist reference independent of morality.	Based on Sharia as a normative and moral source governing both society and politics, with political authority subject to the authority of jurists and the community.
Method of rule	Structural	Relies on specialized bureaucratic institutions imposing sovereignty by force of law and the state.	Based on juridical plurality, without any monopoly of authority.

Difference	Type	Statist System	Islamic Governance
Goals of rule	Epistemic/methodological	Aims at power, control, and achieving its strategic and economic interests, treating the citizen as a means.	Aims to establish justice, implement the divine will, and protect society from injustice, with Sharia as the higher reference of interest.
Principle of sovereignty	Structural	Sovereignty belongs solely to the nation-state, which monopolizes legislation and decision-making, subject to no higher authority.	Sovereignty belongs to God and His Sharia, and the state is merely an instrument for its execution; the ruler does not hold absolute legislative authority.
Limits and space of rule	Structural	Confined to the geographical borders of the modern nation-state, with closed sovereignty over its territory.	A transboundary space, open to the ummah, not based on nationalism or fixed territorial borders.
Distance between authorities	Structural/epistemic	Does not truly apply the principle of separation of powers (legislative, executive, judicial), but monopolizes them within the state apparatus, with the executive authority dominating.	Based on complete separation of powers, each restricted to its tasks and jurisdiction; the executive authority, represented by the caliph or emir, is the weakest in legal effect.
Ethics of rule	Epistemic	Based on the principle of interest, making law the supreme value above all, employing it to achieve goals through monopoly of institutional coercion (army, police, prisons). Thus, morality becomes entirely subordinate to state interests.	Based on Sharia, which places divine morals and standards above interest, linking politics to religious values. Rule is viewed as a trust to realize justice, mercy, and the preservation of rights.

Thus, Hallaq demonstrated the impossibility of the idea of an Islamic state, not because Islam lacks a political vision, but because this Sharia, the foundation and essence of that vision, cannot be reduced into the molds of the modern state, being in sharp contradiction with it.

2. A Third Debate: Wael Hallaq and the Redefinition of Islam

Wael Hallaq presents his third debate: that Islam is neither the Islam of the Orientalists, nor the ideologized Islam of the Islamists, but rather an original and unique ethical and epistemic system, essentially different from modernity and its epistemic order, and capable of offering a radical critique of it. For Hallaq, Islam is an existential moral experience that transcends the

concept of politics as we know it today, re-linking legal action with moral action. In this way, he presents Islam as an alternative project that does not stop at rejecting colonialism or the “Islamization of the state,” but opens a horizon for what he calls “moral politics.”

Hallaq begins this debate by challenging both Orientalism and Islamism in their ability to grasp the true essence of Islam and to understand Sharia in its original nature, placing them before an unprecedented epistemic impasse that exposes the limits of their approaches to Islam. He confronts them with an epistemological crisis that reveals their structural inability to comprehend Islam’s internal logic, through posing a very basic question: *What is Sharia, in the first place?*

This tricky question can be described as a loaded trap, challenging anyone who claims to possess the truth of Islam and its Sharia. It carries within it all the contradictions imaginable in the field of Islamic studies: simple yet complex, known yet unknown, clear yet obscure, easy yet difficult. Moreover, it is provocative enough to oscillate between irony and severity, as it puts all Islamists and Orientalists alike to a harsh epistemic test regarding what they consider self-evident, and it places Muslims themselves in the same embarrassment.

Hallaq believes the problem began with the modern usage of the term Sharia as a synonym for fiqh and law, creating great distortion in the modern understanding of Islam and Sharia. Orientalism worked to plant the idea of synonymy between terms, ignoring the historicity and epistemology of each. Therefore Hallaq insists on re-examining and revising the conceptual apparatus, arguing that a wide range of language is saturated with ideology. Thus, digging into the genealogy of concepts — such as “state” and “Sharia” — is a necessary step to escape the delusions of language and the fields of ruling ideologies, and to rediscover the true meaning of Sharia.

Hallaq conceives Sharia as a historical hermeneutical field, a highly complex structural system on the theoretical, conceptual, practical, institutional, and educational levels. The closest and most precise definition we find in Hallaq, when asked what Sharia could mean, is that it is: *“a vast project of building a moral-legal empire, whose essential structural drive is the continuous pursuit of discovering God’s moral will.”*

Given this level of complexity and difficulty of grasping Sharia, it was easy to fall into traps of simplification and reduction through great epistemic errors, making it unclear and vulnerable to manipulation and distortion by Orientalism. The foremost of these errors was the semantic and conceptual projection of what Sharia might mean onto other tools and concepts — fiqh and law — which do not reflect the true essence of Sharia. For this reason, Hallaq insists on a decisive separation between three concepts: Sharia, law, and fiqh — each with its own meaning, content, history, and field of use, not interchangeable names for one thing.

In Hallaq’s view, Sharia is not law, nor does it need positive law to regulate it or to regulate its subjects. Rather, Sharia is what makes law a law, not the other way around. Law cannot be Sharia, for it cannot encompass it; it can only submit to it and draw from it. Sharia can constitute law, but law cannot constitute Sharia. Law is a temporal text, while Sharia is a discursive practice — rules, practices, interactions, and a complex epistemological structure permeating all social, economic, educational, and political systems, etc.

Yes, there is undeniably a large legal aspect in Sharia, which it developed into at a later stage of its history. But even then, it is not law in the modern sense, but rather guidance and direction for what an issue ought to be, what Muslims call *ahkam* (rulings) — practical, doctrinal, and moral directives ordained by God for people to apply and follow for their well-being in this world and their success in the Hereafter. Here lies the difference: the rulings of Sharia are supreme norms from a transcendent divine source — God — intended to frame all dimensions

of human relations: man with himself, with his Lord, with other people, with his community and nation, with nature and environment, and with the larger world of life and the cosmos.

Whereas positive law is human and temporal, serving the interests of the state in managing people's relations to achieve its goals, not to serve human beings themselves. Thus Sharia's rulings are directive and guiding, while positive law is coercive, utilitarian, and punitive. Here lies the semantic and conceptual confusion in Western minds about Sharia, which they imagine to be a repressive system based on punishment, equating it with backwardness, hostility to modernity, terrorism, women's oppression, and other stereotypes shaped by media imagination about Muslims.

Therefore, according to Hallaq, there is a major fallacy in answering the question *What is Sharia?* by saying it is law. Law is something else. Here Hallaq plays a decisive role in redirecting us from the Orientalist definition of Sharia as law, to the possible definition of Sharia as a comprehensive way of thought and life at all levels: intellectual, practical, social, and spiritual. Defining Sharia as a way of life reflects its capacity to encompass everything while remaining only itself. This capacity means that Sharia can transform all the possibilities of human existence into a moral liberator: liberating action from the coercive "must" into the voluntary "it is better, for God has decreed such." This marks a huge difference between law, which commands merely for the sake of command, and Sharia, which directs while providing reasons and wisdoms, to be obeyed willingly. Likewise, Sharia liberates moral value from the coercive framework of empty law, tying it instead to higher divine meaning.

Similarly, Sharia is not identical with fiqh. Fiqh is part of Sharia, but not the whole. Despite its importance, fiqh remains a partial expression of Sharia — human effort to interpret and apply Sharia to cases. Fiqh is a human, limited, and relative understanding, while Sharia is absolute, carrying divine ideals and eternal rulings.

Contrary to Orientalist claims, Hallaq rejects the assumption that Islam is merely a ritualistic or religious system. He affirms that Islam is a comprehensive worldview (*worldview*) organizing individual and social life, structuring man's relation with God, with the universe, with society, with nature, and with history. This worldview is built on the centrality of Sharia in all aspects of life, not reducible to law. It embraces everything lived: from simple daily practices and social relations, to interactions with nature and the cosmic vision of existence; from eating and drinking, relations with neighbors, trees, and animals, to major dealings such as economics, marriage, divorce, and so forth. It defines for man the meaning of his existence and guides his individual and collective conduct according to justice, kindness, and love, aiming at the higher goal of attaining divine pleasure through obedience to His commands.

The Islamic worldview is founded on the integration of the triad: religion, ethics, and knowledge, so that every human act, from basic worship (prayer, fasting, zakat, etc.) to complex policies (governance, jurisprudence, judiciary, social institutions, etc.), becomes part of a perfectly integrated moral system transcending selfish worldly interests and the lust for power or personal or national glory. Unlike the modern state, which separates ethics from politics and pursues power, Islam reunites them in a harmonious unity, subjecting rule and sovereignty to a higher normative authority: the divine Sharia, derived from God's commands and ethical guidance.

Moreover, this worldview carries a cosmopolitan dimension of great subtlety and precision, seeing the ummah as a transboundary community united by the principle of tawhid, which connects heaven and earth, humanity and the world, on the principle that all peoples are servants of God on earth to obey Him and implement His ethical commands drawn from the Qur'an as a moral force.

Thus Islamic Sharia is completely opposed to modernity, not in a negative way, but in a way that calls for pride in this distinctive human heritage. Therefore, Hallaq presents Islam as an epistemological and normative alternative, able to interrogate Western modernity and expose its limitations, especially its severe moral crisis, by offering a moral model capable of contributing effectively to solving modernity's ethical dilemmas and enriching global debate on how to build a world order beyond nationalism and positivist sovereignty toward a universal human horizon.

3. Conclusion

At the end of this study we reach the conclusion that the central question guiding this article — what is the reality of Islam and its aims? — leads us to a fundamental result: Islam cannot be reduced to the distorted images offered by either Orientalists or Islamists. The former reproduced Islam as a closed historical phenomenon, lacking originality or uniqueness, and as a regressive system incapable of keeping up with modernity. The latter turned it into a mere political tool, confined within the discourse of state and power. In both narratives, Islam was emptied of its ethical energy and of the moral universality that characterized its civilization over centuries.

Through his dual critique of both narratives, Wael Hallaq offers a radically different new narrative, attempting to present an epistemological and ethical approach to Islam and Sharia as a transcendent normative system, seeking to realize truth, divine command, and God's sovereignty, which is essentially moral sovereignty. This approach rests on a central foundational premise: Islam in its essence is not a state project, nor can it be reduced to narrow concepts such as law, authority, or sovereignty. Rather, it is a moral system of life that proved its viability historically and practically, not as mere utopian thought. Through Sharia, Islam established a transhistorical and transboundary cosmopolitan moral system — not as positive law seeking to monopolize power like the modern state, but as an ethical formation grounded in spiritual and moral commitments, seeking to serve society, protect individual freedoms and interests, and adapt its rulings to changing circumstances without abandoning its ethical foundation.

Thus, in Hallaq's vision, Islam is an existential commitment that transcends politics in its instrumental sense, rebuilding the social, economic, and cultural fields according to the principles of justice, mercy, and solidarity. This means that Islam carries the ethical and epistemic authenticity sufficient to save the ship of modernity from sinking into the sea of its destructive moral crises. Islam ought to be a fundamental partner in the contemporary moral debate on modernity's crises, and, like all morally rich traditional cultures, is capable of offering sound ethical alternatives to help us overcome modernity's flaws and heal its problems. This is not merely an intellectual stance, but a new global vision that challenges the centrality of Western modernity and rethinks the very conditions of the possibility of ethical life in a globalized world.

Accordingly, it can be said that Wael Hallaq's Islam transcends the binary of Orientalism and Islamism, or any other narrative that presents Islam contrary to its true essence as a moral and ethical system. He places us before an urgent task: the recovery of Islam as a normative horizon capable of producing meaning for contemporary life, one that surpasses the narrow logic of the nation-state and the entire system of modernity. This vision, despite its difficulty and challenges, opens the door to future studies that engage with the question of ethics and politics from a standpoint that goes beyond the binary of East and West, backward and advanced, European and non-European, thereby repositioning Islam as a central actor in the global debate on the possibilities of ethical living.

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