

BOOK REVIEW FOR *MIDDLE EAST AFFAIRS JOURNAL*

Noah Feldman, *After Jihad: America and the Struggle for Islamic Democracy*, New York: Farrar, Straus and Giroux, 2003. x + 260 pp. including index. Hardcover. ISBN 0-274-17769-4

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A New York University School of Law Professor and a former Supreme Court clerk to Justice David Souter, Noah Feldman has made quite a splash for a young man. Still in his early thirties, the Bush administration has selected him to oversee the writing of the new constitution for post-Saddam Iraq. In *After Jihad* he surveys the struggle for democracy in the Muslim world with an impressive breadth. Feldman argues persuasively that Muslims “want freedom as much as anyone else” (p. 11), that political Islam is in the process of moving from the field of armed insurrection into the field of electoral politics (p. 49), and that Western “support of autocracy undermines their own democratic values and makes enemies of people who are oppressed” (p. 11). He argues somewhat less persuasively that if the Muslim world were truly democratic it would more easily “accept the permanence and legitimacy of Israel's existence” (p. 14).

The book is in three parts. The first part attempts to show how a synthesis true to both democracy and Islam is possible. The second part examines the interaction between Islam and democracy now taking place in the Muslim world. The third part urges a change in Western, especially American, policy that would encourage rather than impede democracy. A “notes” section tacked on at the end (pp. 235 ff.) looks as though it were an afterthought. Feldman shows discernment in his citation of sources, but the absence of index numbers to the endnotes leaves something to be desired.

The most impressive original idea in this book is the notion of “mobile” ideas (32 ff. and 75 ff.). These are a subset of universal ideas that, in addition to universality, have the attributes of flexibility and simplicity. Islam and democracy are ideas that possess all three of these attributes. The universality claimed for Islam and democracy, that they are applicable to all people in all places, is obvious. Both ideas are also simple. Islam is simply submission to the only God; democracy is simply “rule by the people.” Yet simple as these ideas are, they are extremely flexible. Democracy has been interpreted many ways from the original ancient Greek concept to the American republic and the “democratic republics” of the communist era. Islam has manifested itself in a wide variety of forms from Indonesia to Morocco to the emerging Muslim communities in the West. The interaction of these two mobile ideas with one another possesses the potential of generating novel systems of government under which people could peaceably pursue an Islamic way of life unencumbered by dictators and warlords and at peace with

democratic non-Muslim societies. Feldman notes that secularity is not a condition of democracy (p. 12).

There are multiple means by which mobile ideas may interact. One is “cosmopolitanism” in which people pick and choose from among the possibilities offered by the union of mobile ideas (pp. 34-35). Another is “creolization,” the spontaneous generation of a new hybrid idea (pp. 35-36). Yet another is “conflict,” but unlike Samuel Huntington, Feldman believes that the self-conscious desire of Muslims to live in a society that is both democratic and Islamic make the fourth possibility, a synthesis of these ideas, a more likely alternative (pp. 36-37). Feldman points out that the concept of liberal democracy is itself a synthesis of two quite different ideas (p. 36).

There are various ways in which a synthesis of Islam and democracy may be implemented. Commenting on the nomination and election of the caliph “by a group of people with the power to ‘loose and bind’ (p. 52)” Feldman points out that “the concept of ‘loosing’ suggests [that] the people may in theory and retain the power to displace the caliph if he did not keep his side of the bargain” (p. 53). Particular elements of Islamic law can be incorporated democratically into the statutes of an Islamic republic by “enacting, law by law, a code of rules that correspond to Islamic law,” as was done in the Ottoman state where the code thus produced was called the “Majalla” (p. 56).

Another method of implementing an Islamic republic is to let the judicial branch determine if laws are “Islamic.” While this puts a veto power in the hands of unelected officials, so do the American and British systems in which unelected judges decide the “constitutionality” of legislation (p. 56). The objection that placing some laws above popular sovereignty ignores the fact that “even the U.S. Declaration of Independence does not expressly say that the people are sovereign but rather that all men are created equal and endowed by their creator with certain unalienable rights. An unalienable right cannot be eliminated even if the people vote to abrogate. Unalienable rights therefore place a limit on the sovereignty of the people even in a democracy” (p. 57).

A signature characteristic of Feldman's approach is his intellectual honesty. In addressing the concerns of secularists regarding traditional interpretations of Islamic law regarding women's testimony, share of inheritance, and rights of divorce, Feldman frankly notes the more disadvantageous position of women under Jewish law, and “of course, in Anglo-American common-law until the modern era...” (p. 65). Feldman brings a similar objectivity to his discussion of the emotionally charged issue of the headscarf. While he acknowledges the symbolic importance of clothing, he notes how misleading inequalities in clothing mandates can be as a measure of the compatibility of Islam and democracy. He does this carefully noting that he neither endorses compulsory covering by the Islamists nor compulsory uncovering by the secularists such as in France and Turkey (p. 67).

In the matter of human liberty, Feldman notes the double standard of those who criticize Islamists constraints on individual choices when their own states regulate everything from marriage to crash helmets. He writes, “no democracy, however liberal

has ever adopted the pure liberal view that the state must refrain from regulating conduct that does no harm to anyone except the actor” (p. 69). It is the Qur’an that forbids coercion in religion. Feldman notes that most Muslims understand this to prohibit coercion in matters of private belief, yet he fairly points out that “it would be difficult for a Muslim to abjure his religion publicly in an Islamic state that had laws against apostasy. This problem poses a real challenge to what Westerners consider freedom of religion and speech...” (p. 70). The same applies to the laws against blasphemy. Yet on the other hand, Islamic law defends the privacy of the home to a degree beyond that of American law (p. 70).

Feldman accurately identifies American policies that inhibit democratic reform in the Muslim world. For example, in connection with the military nullification of the first free and fair elections in Algeria, he notes that “America's willingness to give tacit approval to the suppression of democracy, when presented as a defense against fundamentalism, emboldened autocrats in the Muslim world; wily about their own survival, the autocrats jailed and executed democratic activists” (p. 19). In describing the Saudi role in funding “political Islam” (which, Feldman notes, the Saudis do not practice, instead basing their political system on tribal traditions) Feldman analyzes the geopolitical considerations in which, of course, American decisions played an important part, notably the intervention in Afghanistan (p. 48).

Feldman emphasizes the importance of American policymakers understanding the real power of Islam and setting aside propaganda that Islam has no appreciation of universal values. Rather, he notes, “When people in the Muslim world criticize their governments as being un-Islamic, they are often simply calling those governments on just, corrupt, and repressive. One of the great strengths of Islam in the political realm lies in the clarity of its moral vision, which holds rulers accountable to Justice and the rule of law” (p. 20).

Feldman displays an astonishing degree of insight, yet he manages to make a few of errors that suggest the depth of his knowledge does not match the breadth. He refers to Abu Bakra (the convicted perjurer) as Abu Bakr (the name of the first caliph, p. 243). He refers to the Iranian revolution as a “violent” (p. 7) model, yet almost all violence in the Iranian Revolution was by the state against peaceful demonstrators and strikers. (Perhaps Feldman is he meant to refer to the state violence that took place after the Islamists took over, or perhaps the student seizure of the U.S. embassy that also took place after the revolution.) He could have used this fact, together with the fact that the Sudan was seized by a military man who briefly aligned himself with the Islamists and even the Taliban met little resistance until they reached Kabul in support of his insight that “violent jihad has popular support” only when perceived as an act of liberation (which he bases on cases like Lebanon, Palestine, Kashmir, and Chechnya, p.8).

An important part of Feldman's analysis is his distinction between Islamist democracy and Islamic democracy. “Islam comprises a complex set of contested ideas, values, and beliefs.... despite its image in the West, and some egregious examples of intolerance in places like Iran and Saudi Arabia today Islam has a rich if imperfect

tradition of tolerating intra-Islamic diversity of opinion on matters of religion. Most believing Muslims would say that there is one true Islam and that people disagree about what exactly the right Islam is. Only God knows for sure” (p. 22).

Feldman shows a justified concern for anti-Semitism (read: anti-Jewishness) in Islamist rhetoric. Where the Arab nationalists were insistent on criticizing (modern political) Zionists and distinguishing them from Jews, Islamists refer to Israelis as “the Jews” (p. 167). Muslims should understand his concern, as we are equally offended by polemicists who make no distinction between terrorist bombers and “the Muslims.”

Although he correctly notes that Muslims did not rally to support al-Qaida in its violence against America (p. 8), Feldman’s phrasing in the past tense seems to overlook the fact that al-Qaida still exists and that the American adventures such as that in Iraq could conceivably give Muslims second thoughts about their decision not to support it to date. In observing that Islamist parties did well in late 2002 elections in Morocco, Pakistan and Turkey, he leaves unmentioned the role that American hostilities against Afghanistan may have played in at least the first two cases (p. 13).

Despite his antipathy for the prospect of an “Islamist democracy,” Feldman recognizes that “the first most obvious institutional forces with the capacity to take on the job of policing democratic institutions are Islamist organizations” (p. 222). This is because “Muslim governments have prevented the rise of a vibrant secular civil society of the kind that many theorists of democratization have long believed necessary. Islam and Islamism have filled this gap.... [T]he Islamists have brought to the realm of civil society the same flexibility and creativity they have brought to the reconsideration of Islamic tradition, and, in recent years, to the possibility of Islamic democracy” (p. 223). He adds that “building civil society through communal organizations puts Islamists in precisely the right place to make democratization happen” (p. 224).

Feldman is objective in noting that if no synthesis of Islam and democracy has yet arisen, the West must share in the blame. He writes, “The West, and particularly the United States, needs to change the incentives created by present foreign policy so as to facilitate, not discourage, democratic development in the Muslim world” (p. 12). While Feldman has advice for America and Europe on how to change their policies, he seems to have little or none for Israel, even though he is aware of how Israel has been a stumbling block to the growth of democracy in Jordan (p. 84). While he discusses the diplomatic costs of American support for Israel, he gives the impression that the anti-Americanism it generates is better countered by abandoning support for Muslim autocrats than by pressuring Israel. He writes, “Opening the floodgates of political discourse in the Arab world will reduce the centrality of the Palestinian issue, as Arab citizens get the chance to express their opinions on the full range of government decisions involving domestic and foreign policy.... Israel will begin to look more like a potential trading partner, and less like the neighborhood bully that it appears to be in the minds of many Arabs” (p. 192).

Feldman is correct to say that it is impossible “for ordinary Arabs to take responsibility for the choice to make peace and accept the permanence and legitimacy of

Israel's existence ... so long as Arab leaders remain autocrats who do not speak or act for their people” (p. 14). Yet one must avoid the mistake of thinking that meeting this necessary condition is sufficient without a change in Israeli policies and major concessions on Israel's part. Israeli apartheid and violations of International Law (including the Palestinians’ right of return to their homes) will not be ignored by the Muslim (especially the Arab) masses. If democracy in the Muslim and Arab world makes possible normalization of relations with Israel, it will only be because it has facilitated focusing world attention on the necessity of addressing these issues. It is doubtful that it could facilitate the avoidance of these issues, let alone make it possible to achieve peace without addressing them. If it is true that democracies do not attack other democracies, then the establishment of peace between Israel and the Muslim world will require more than the adoption of democracy by the Muslims nations, it will also require that Israel abandon the apartheid and extra-legal policies that distinguish its system from a true democracy.

The book is insightful and highly readable and could be used in an introductory course on the subject of Islam and democracy.