

Professor Wael Hallaq's lecture

The Illusion of Modernity and the Religion of Secularism

Dr. Islah Jad: I start by thanking all colleagues who have helped in the last minute to receive Dr. Wael Hallaq. We were hopeful that we would receive him at his university, Birzeit University, yet, unfortunately, due to emergency circumstances t, we could not do so. On my behalf and on behalf of the Institute for Women's Studies and Birzeit University I welcome everyone and express my utmost gratitude, appreciation and pride that I am presenting Professor Wael Hallaq today

Professor Wael Hallaq is one of the most prominent scholars of Islamic law and philosophy of law. The sphere of his primary focus is the epistemological legal fragmentation that manifested at the beginnings of modernity accompanied by many social, political and historical forces, in addition to intellectual history and evolution of orientalism. Professor Hallaq is also interested in the evolution of Islamic traditions from the theoretical and legal perspectives and the independent systems at the heart of these traditions. He is the author of ten books, including *The Origins and Evolution of Islamic Law* 2005, *Shari'a: theory, practice, transformations*, 2009, and *An Introduction to Islamic law*, 2009. His forthcoming book – to be published by the Columbia University Press this year – deals with the possibility of the establishment of an Islamic state in light of modernity's moral predicament. The author of many influential articles, , he has lectured in many universities around the world, and his works have been translated into several languages, including Arabic, Indonesian, Japanese, Hebrew, French, Turkish, and more recently Russian. In 2009, his name was listed among the 500 Muslims considered the most influential in the world. Wael Hallaq is the Avalon Foundation professor in the Humanities at Columbia University, where he started teaching in 2009. He joined the University of McGill as an assistant Professor in Islamic law in 1985. After receiving his Ph.D. from the University of Washington in 1983, he attained full professorship in 1994. In 2005, he became a James McGill professor in Islamic law, [at a university that] is considered the finest among Canadian universities. Let us all welcome Professor Wael Hallaq

Professor Wael Hallaq: May the peace and mercy of Allah be [bestowed] upon you. Brothers and sisters, I greet you and [salute] your heroic steadfastness, especially after a long absence from the West Bank, which I have not visited since the late seventies. My visit today to Birzeit, on a personal level, is a historic trip. I would initially like to offer my special thanks to my colleagues at Birzeit University who arranged this kind invitation to visit [you] today, especially my colleague Professor Islah Jad, the Institute for Women's Studies, and the entire Birzeit

University. This is a happy day and a sad day also! Allow me, if I may, to delve into the subject directly. When I accepted Dr. Islah's kind invitation, and formed a general idea of what the public wishes me to speak about here, it was possible for me to talk about a number of topics, many of which are specific and detailed, whether in the fields of [Islamic] law, politics, or otherwise. But, after some thought, I saw it appropriate to pose a few questions from a philosophical perspective so we can delve into the heart of the matter directly and deal with its core, without getting lost in the maze of detailed side issues. [Such] issues do not often allow us to touch a delicate nerve. As it seems to me, and this is a fundamental issue, the modernist discourse in our world today near and far is a hegemonic discourse and we find too difficult to extricate ourselves from its epistemological snares. Most of the time, critiques of modernity are an integral part of modernity itself, despite claims that these critiques adopt a postmodern perspective. In other instances, some critics think that their arguments are particular and I mean that they pertain to a certain region, are specific to a specific culture or a certain religion. Yet, in actuality, such arguments are not differing substantially from other modernist arguments. The discourse of modernity is everywhere, and its epistemological system threatens the intellectual independence even of critics of modernity themselves.

But there are other epistemological threats that are no less important than those. One of these is the acceptance of the argument of the other without question, and without examination or scrutiny and interpretive judgment. A key example is the issue of democracy (and I mean the Western forms of democracy here) as it is one of the comprehensive and central concepts in modernity. This is a sensitive concept that has significant political dimensions, so we must ask the question that is most serious: Do we know what democracy is? Do we know what its components, methods and roots are? Do we know its history? Do we know the causes of its emergence? Do we understand its wisdom and physical and ethical dimensions? And perhaps most important of all: Does the West understand at the general level what democracy is and what its physical and ethical dimensions are?

At the same level of importance is how the West would behave--since it has lectured us for almost two centuries -- if it discovered one day that its democracy is a problem, and that it is has an incurable disease? Would it come to us with the required humility to admit its mistakes\ and tell us that its system is erroneous, or at least that one problem after another emerges from it? Friedrich Hayek, who is one of the most prominent political science and law scholars in the West said: "Because we believe in democratic principles and ideals, we defend the institutions and practices that contain and express democracy, as well as refrain from criticizing democracy for fear that such criticisms would weaken the respect we hold for it and for the ideals embodied in it. Yet it seems to me," says Hayek, "that our disappointment in the experiences of democracy in our Western world does not originate from the principle of democracy itself, but from the another truth, i.e., that we practiced democracy erroneously".

Here you must notice the separation between the principles and the historical truth in Professor Hayek's expressions, as if there are humane principles that appear to humans outside space and

time, since if principles are not in or of history. The question that Professor Hayek did not ask is: Where are those principles, and who formed them and why were they not applied? Why did the West permit itself to live for over two centuries incapable of applying its wonderful principles? Let us take another step here in terms of our ideals for democracy. We know like everyone knows, even primary school children in their civics classes, that democracy is based on the principle of separation between the three branches of power. There is no rule of the law without the separation of these powers, and there is no democracy without the rule of law and the separation of powers. These are simple matters that are known to all, and every citizen, whether Western or Eastern, believes in these maxims.. I learned about these things when I was eight years old.

The question that arises here, then, is: Were the Western countries from Europe to America,-- which took upon themselves to export democracy and the principle of freedom to other countries for at least half a century e--ven if it took the destruction of such countries and the oppression of their people as happened in Iraq -- successful in avoiding the criticisms of Professor Hayek? Note here that all the sources of the thinkers whom I am presenting to you are Western and come from the heart of Western society and culture, and are not Eastern critics who are criticizing from the outside. Unfortunately, duplicity exists in the Western discourse regarding the question of democracy and its political and structural foundations. There is a well-known popular public discourse that politicians use in their parliamentary and media speeches, and there is another discourse used by American and European scholars of law who study the constitution, the separation of powers, democracy-related issues, and the rule of law. It is here that we find the enormous gap, which is a fatal gap if we are allowed this expression. The first discourse is a political discourse that is preoccupied with the logic of power, control, sovereignty, and convincing every one of it, and it deploys the following logic: We own the latest and best methods of governance as well as the strongest forms of technology; hence we ought to and have the right to lead the world. This is what we hear on a daily basis from the leaders of the Western world, , whether they were presidents or parliamentarians or other officials. The discourse of the second camp, however, is mostly a scientific discourse and is predominated by non-political characteristics; at least they are not clear political characteristics. It is also predominated by self-critical characteristics which do not exist in the discourse of Western politicians. These scholars, or at least the best among them, seriously study issues of law, politics, the constitution, and associated issues and problems of democracy

What do some of these prominent intellectuals say? They say that democracy is based on the separation of powers, but this separation both in theory and practice suffers from a major crisis. As I discussed it in my new book *The State and the Islamic State*, [published in January 2013 by Columbia University Press], these critics seriously contend with the notion and practice of the separation of powers as implemented and conceptualized in Europe and in America during the past two centuries. Some conclude that this principle, and its practice, must be disposed of and replaced with something else, while others conclude that political scientists and state scholars

have not been able until now, since over two centuries, to solve the problem of the separation of powers, and that they have not comprehended and still do not comprehend what the concepts of separation require, and what its true objectives are.. I am relying here on writings published in the last ten years, which examine European practices but in particular America's export of "democracy" which constitutes a political and constitutional revolution against the U.S. constitution itself, and is also a revolution against the principles of democracy. In this exercise, the U.S. executive authority, in fact has usurped for rights, privileges and almost absolute freedom is acting which has destroyed the legislative authority; the same may be said in the case of the judiciary, which has the power to review and repeal resolutions by the legislative authority. The latter is the pillar of popular representation (which means popular sovereignty) and is a central concept in Western political thought and political philosophy, while it has become nominal only because the executive and judicial branches came to share the powers of legislation with it, as if legislation was not its fundamental right to practice, and this is only one problem.

There is another problem, or rather countless other problems. The second problem is what they call the problem of the administrative state, which has become an important term in recent years; the gist of the second problem is that the modern administration, i.e., the "Weberian" administration, (according to Max Weber and his notions of bureaucracy). That is, the modern or modernist administration has ventured into the executive power to make it a stand-alone state, which caused the executive power to become semi-autonomous. It legislates, rules, and implements at the same time, and now three powers exist in the executive branch alone.. I do not wish to examine these problems in detail, since I had done so in my new book, and the evidence and arguments concerning these constitutional problems are various and complex, so I can only outline them here and My goal from it is to say that we must not, as all individuals and nations must not, rush to adopt ideas, discourses and practices until after scrutiny and careful consideration. and obvious. I tell you this sentence after a conflict with a dominant tradition of academic thought for three centuries, and the dimensions of this simple sentence are immense. I am not saying that scrutiny and careful consideration are enough.

As an assumption let us ask: Is it possible for us to adopt the concepts and practices of the separation of powers and democracy if we, for example, reach a contrary conclusion from the critics I have noted? I mean that they are all, despite what I discussed, safe and sound from each and every defect. The answer is no, of course, because these concepts, as formulated in the West, are not suitable for situations and communities that did not arise and thrive on these concepts, i.e., communities that have special identities which were formed as a result of a particular history and experiences. Then there are two conditions: the condition of soundness and the condition of what I call acceptability, and this second condition means that I would be adopting, without taking into consideration my own civilization and cultural personality, concepts and practices that are not mine as if they were mine and belong to my organic components.

Acceptability, then, is an organic issue, which can be a very sensitive issue, because the violation of the organic nature is usurpation of the components of the soul and self. The same applies to all political and social concepts inspired by Europe and America to the world. As the great German thinker Karl Schmidt, who and has become one of the most prominent thinkers in political theory \, in spite of the animosity of Western liberal thinkers towards him because of his association with the Nazi Party said; these concepts (separation of powers, democracy) are today gaining a secular form which makes it seem like they devoid of time and space, history or any particular society. But the truth is the contrary,. All of these concepts; the political concepts, such as democracy, liberalism, capitalism, secularism and so on are based upon, and derive from, European or Christian concepts, and in particular European Christian, because European Christianity is a distinctive Christianity that Europe had forged to serve its internal and colonial objectives.

In the construct of the liberal system, we see that the liberal system is based, at least, on two important and interrelated bases, i.e., politics and the economy. Politics requires a governmental system that acts to create political priorities, the most important of which is the priority of the happiness of the individual, as defined through material and political, and not ethical, goals As many philosophers have said, the state and politics have no interest in the issue of ethics as a philosophical matter that lays the foundation for the economy and politics As we all know, the liberty of buying, selling, the free circulation of capital, and the primacy of profit are the cornerstones of the liberal economy that prevails in the world today, not only in the West. It is very clear that liberal economic concepts are not based on any ethical foundations. This partly explains the nature of the political and economic crises which we experience today. We must understand that the liberal secular system, which involves certain economic and political concepts, and not just any economy and politics, had reached us from a certain history and a particular civilization and ideology, but we no longer understand that history today.

For reasons which I do not wish to discuss, the intellectuals of Europe and America have feigned forgetfulness about this history and its remains, while we, in the East, are, so far, not concerned with exhuming the skeleton of this interred ghost from its grave. Here I would like to pose the question: Who is this ghost that was buried? Since the beginning of the eighteenth century, various philosophical and social movements emerged in Europe that were called, and are still called until now, the enlightenment era. I must say in passing that it would not be possible for us to understand our present civilization and how our Eastern Islamist civilization continued existing without a sound understanding of what we call the enlightenment era. ssible. We cannot do anything before we can comprehend this first, since much of what we think is ours and our civilization's today are European concepts or eastern concepts mixed with European concepts that we may claim as ours while they are not. If we go back to the eighteenth century, we would find intellectual and philosophical movements that emerged in Europe on the basis of separation between what existed and what was desired, i.e., between actuality and principle, and

between positivist facts and values (mainly moral values) and this is expressed in the field of philosophy as the separation of the (ought) and the (is), and what is also called the separation of fact and value.

This separation is the lifeblood of modern civilization, its backbone and the heart that pumps its blood. Each of today's problems in politics and in the economy, if we trace its own genealogy, is due to this separation. Thus, the problems of modernity lie in this separation. There are different types of separation but this is an irrevocable separation between the so-called truth and what we desire morally, or between actuality and the end-goal. This separation is akin to a split between the soul and the body, and between matter and the self; and most importantly, this separation was akin to a distancing of morals from all other spaces, whether economic, scientific or legal. For since the eighteenth century, and especially the nineteenth century, these philosophical movements manifested and expressed Europe's economic, political, social and colonial realities, and led eventually to the splits in the concepts of politics, law, economics, and even in the pure sciences like chemistry, physics, biology and mathematics. Since then, the link between these binding moral principles and the practices of reality was lost, and actuality became the highest and sole criterion that determines what must be done; moral principles became muted and did not perform any function. This development is consistent with many of the phenomena that occurred in the age of enlightenment, such as the revolution against religion, summed up by Nietzsche in his argument that God Almighty had died, an argument that reflects and expresses the spirit of the nineteenth century and we; as the two preceding centuries. The death of God for Nietzsche was not, of course, a physical death but an ethical death. the death of binding ethical principles.

We could say that the founder of this separation (on the political and legal levels, at least) is the philosopher Thomas Hobbes. Hobbes had decided (as the legal philosopher and legal positivist John Austin elaborated) that what the in our world prescribes – in the here and now - is the legitimate and prevailing law divorced from morals. Secondly, this matter seems so simple, yet it is not, and this pertains to the rule of law (the law of the ruler here), which spread from European countries i to all other states and societies, especially since to the era of colonialism, when it has become globalized and international, This is the sole picture that we know, So what does this separation of law and morals and of reality and principle mean? Or in other words: What does it mean to us that the state legislates? If we accept the following analogy (that the modern administrative state was constructed upon the separation between facts and values, and between actuality and principle), then every modern legislative state is not subject to higher ethical principles, i.e., ethical principles that bind it when [the state] legislates laws and administrative regulations. Thus, the modern state cannot constitute an ethical existence, since it cannot live and subsist without this legislative quality. Every modern administrative state is necessarily a legislative state, and every legislative state (if we accurately understand this expression in its modern sense) cannot be an ethical state or structurally based on ethical principles; as ethics are either completely or marginally isolated, and cannot constitute a structural element. This is only the second lecture that I deliver in Arabic in my life, so I beg your pardon if there were some

grammatical errors, but I've delivered almost 250 lectures in English. [This is] the tragedy of the Palestinian people.

Then, there is a central phenomenon in the European enlightenment era based on isolation between matter and value, and by that I mean that cosmic matter started acquiring new meanings in light of the evolution of European science, and matter became devoid of moral values. Hence the European perspective began to view matter as a raw material (what does this expression mean? raw material, not active matter), and was also deprived of rational ethical meanings. The matter of the universe, and consequently the universe itself, became rigid matter created by God or nature to be under the control of humans and their will. The human being, and here of course it is the European human being, not only become a master of nature herself, as the philosopher Kant had called for, but also became the unchallenged master of nature other civilization had known in human history before has had this feature. The pure human mind, which now stands on an instrumentalist basis, can decide what nature is and how it should be dealt without commitment to any values outside human systems, whether these systems were political, economic or intellectual/philosophical.

Here the humble moral deterrent that asserted that humans do not own the universe and , do not understand its secrets, and thus humans cannot do as they please collapsed., The fall of man as the successor of God on earth (and this succession is not Islamic only but is present in all major religions) in the era of enlightenment created a new thinking, a new perspective and new behaviors in all aspects of life, This led to ethical irresponsibility in dealing with nature, and is a significant cause of the environmental degradation, poisoning and looting of nature that we see today. Yet there are other dimensions to this philosophy of enlightenment, wherein European man acquired a new quality. He not only controlled nature, but also dominated other humans, the human who is an extension of this nature, and who was frequently called the "noble savage" in Europe. This means that we are all, in this room, "noble savages" and the proof is in the Israeli settlements that surround us.

Hence a new refutation of colonialism ensued; a refutation that has given new meanings to what this term means, which did not exist before the appearance of Europe on the political and military maps. Any concept for modern colonialism, which does not take into consideration this separation in the age of enlightenment, i.e., the separation between value and fact, is an erroneous notion. Yet at the same level, it is a mistake to assume that European colonialism of the Americas, Asia and Africa is totally different from what I call internal colonization, in which the modern state played a significant role. The modern state was based on a legal and political foundation the logic of which was that actuality is separated from ethical principles and is the legitimate and rightful actuality, and that the values and ethical principles are not the concern of this positivist state. The modern state is a new type of metaphysical state, i.e., it has existential ontological potentials that are not in line with the traditional existential potentials that were known in religions (traditional religions, whether Islamic, Jewish, Buddhist or anything you want). The control and sovereignty over the universe, the earth, nature and the human being itself

had become part of the laws of the modern state that was built on the foundations of secularism. Then what is secularism but that separation between religion and public space, which is the area of state control? This is the domain whose borders are determined by that state itself, for it contracts and expands in accordance with the will of the state and its desire. Secularism is the instrument of state control over the traditional society based upon the priorities of the family and organic community, not simply any given community (I mean that 'Facebook' is a community, yet it is not an organic community). This is what I call an "organic community" in English. Traditional society, or organic community refuses to separate fact and value, and reality and principle, but the modern state came to dictate new terms. As Anew God replaced the old God, who had saturated the universe and the material world, including its mountains, trees and human beings, with metaphysical moral values that exceed the metaphysical positivist values that were created with the modern state. Secularism, then, is an instantaneous instrument that serves that new God, now in this moment that has its own temporary morals and values and which is conditional to the conditions of the present and are subject to change according to instantaneous changes and facts, and hence it becomes arbitrary.

So if we assumed that traditional religions are a collection of comprehensive and deterrent laws and moral values, then secularism (which is the creation and product of the modern state) does not recognize any restrictions of principles outside itself, since the religion of secularism is secularism itself. Secularism has no higher principles than its own, for the will of the state and its power is the source of authority for secularism. Thus accepting secularism is accepting the modern state with all that it was founded upon, in terms of the concepts of the age of enlightenment, which emerged entirely out of the European circumstances and conditions. If we become aware of this fact, that secularism is a new religion of the West, a religion that occupied the niche of European Christianity to be rid of its heinous evil and exploitation, then we must be absolutely clear that this new religion has reflected European experiences since the sixteenth century, and mirrored the European existence in particular.

I do not wish to say that there are ideal and problem-free societies, for our society, like any other society today, has ample problems; yet this does not mean that our problems and our history match the problems in Europe at all, and this does not require any proof. But I would like to say that accepting? The non-discretionary tradition of the West is a reverse exercise of orientalism by which the subjugated and enslaved self-accepts the epistemological conditions decided by the colonizer and enslaver. Therein lies the standard of consideration and the ultimate test of our ability to configure a new epistemology, or an epistemological theory and system that treats the West and its colonial epistemological discourse by the same standards and assumptions that it self-adopts when it subdues and weighs other peoples and civilizations. It is not permissible for us to accept any argument, theory or system without subjecting them to scrutiny and careful consideration, and without subjecting them critique. I have opened this lecture by talking about Western democracy, which is an excellent example here in Palestine and our region, since we often repeat this word and call for the adoption of its concepts and institutions that are taken from

the West to the letter., There may be nothing wrong with that in itself, yet there are risks and errors if we do not understand what democracy is and what it entails in terms of political, social, economic, and ethical constructs, as well as what the predicaments of democracy are, even as articulated by Western scholars.. This is first. Second, even if we assume that Western democracy is devoid of any defects, how do we deal with this issue in light of what I called acceptability? And here, of course, I am referring to secularism and its correlates – we could say all the “isms.”.. How do we embrace all this while we know that it is a result of a purely European epistemological system?

Incidentally, this unconditional acceptance is the opposite of democracy itself. This does not mean that we cannot derive ideas from the West, or other sources, when they are suitable for our projects and objectives. This is something Muslims and Arabs had done since the early centuries, concerning, for example, the philosophy of Greece and India, and all other civilizations that they encountered. But when Plato, Aristotle, Porphyry and many others were introduced to the Islamic intellectual systems, they were admitted after scrutiny and serious consideration, and after a meticulous intellectual handling and long debates that lasted over three centuries. This was a derivation based on self-confidence, a derivation that took place via strength coupled with humility and the need for criticism. Within this framework, we must take another step, namely the epistemological retrieval (and I stress: epistemological) of our civilization and cultural identity, for unfortunately we are still writing the history of our civilization in the way the West had written it for us since one or two centuries. If this history is relative, then modernism and Postmodernism require us to produce a history that is suitable for the modernist situations, and that retrieves what is important to us of this history; I mean what is important to us in light of the moral, environmental, social and political crises of modernity that we all suffer from. For example, and without a doubt, our history is replete with ethical principles that can be formulated in a modernist style to resist the European philosophical principles which are based on flimsy philosophical and ethical concepts. In this regard, we can have a dialogue, and be in solidarity and join forces with the Western intellectual forces that also express this criticism, and which expressed a similar intellectual vision of the Eastern criticism that I am proposing to you now. Here I would like to stress that the problems facing the majority of the East are not individual problems that God had caused to befall us alone, for if we reflect a bit and if we reside in some parts of the world, including Europe, America and East Asia, we would discern that most of these problems are general problems afflicting all societies.

If we wanted to restore our cultural lifeline, we must consider the problems and crises that we are experiencing from a comprehensive perspective, with the West and its epistemological system an integral part of our considerations and studies. If we were able to diagnose our problems this way, this implies that we must be able to comprehend the West, its civilization, and the era of enlightenment, as well as being capable of understanding its epistemological discourse, not to imitate it, but to enter into a critical dialogue with it. If science has organic relationships with

power (and there is acknowledge power nexus), , then a word and an idea have as much power to kill as a bullet and a bomb, so we must not go into this battle on these terms. Thank you.