Review Essay

Islamic Law, Institutions and Economic Development in the Islamic Middle East

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Timur Kuran has spent much of the last decade investigating the economic and institutional development of the Middle East. The Long Divergence: How Islamic Law Held Back the Middle East brings the results of this research together to provide an explanation for the decline in the region’s economic fortunes.

Although generations of scholars have sought to understand the Middle East’s economic decline, Kuran’s book is especially timely given recent political developments in the region. Observers across the world are looking to the region’s history to better understand the political and economic ramifications of the Arab Spring. While Kuran seems sceptical that the region can currently sustain democratic rule (p. 301) his analysis provides hope that institutional reforms can lead to positive political and economic outcomes in the long run.

Kuran links the long-term decline of Middle Eastern economies to a delay in adopting the institutions of the modern (Western) economy (p. 5). The critical institutions in Kuran’s view boil down to those that affected the ability of merchants to accumulate capital (both statically and dynamically) and to engage in impersonal exchange. Islamic law discouraged capital accumulation through its egalitarian inheritance system. This legal system also discouraged the emergence of impersonal exchange. Islamic institutions — arguably the most conducive to economic development in the world throughout the early Middle Ages — stagnated starting somewhere in the later Middle Ages and were eventually surpassed by those in Western Europe. Western Europe’s institutional changes facilitated both impersonal exchange and capital accumulation. These and subsequent institutional advances allowed Europe to increasingly dominate economic interactions with the Middle East.

Economists increasingly view institutional differences as key to understanding divergent economic outcomes. Kuran is a pioneer in applying this
analytic framework to the Middle East. This focus allows him to cast doubt on a host of previous explanations for the economic stagnation of the Middle East. He rightly observes that explanations that attribute this stagnation to external shocks such as the Crusades, the Mongol invasions or European colonialism are inadequate. Instead, he seeks to understand why the decline in the efficiency of the Middle East’s traditional institutions took so long to elicit reforms (p. 38).

Kuran deserves to be lauded for providing a narrative for how certain Middle Eastern institutions negatively affected economic outcomes. This book represents an advance in our understanding of the functioning of commercial institutions in the Middle East and of their dynamic consequences. Indeed, it is difficult to read this book without acknowledging that many of the institutions that Kuran highlights did indeed hinder the region’s long-term economic development.

Despite these strengths, one comes away from the book without a clear understanding of why the institutions highlighted by Kuran stagnated. Early in the book (p. 34) he notes that ‘institutional trajectories are related to distributions of political power’. This observation is consistent with an influential literature stressing the importance of the preferences and constraints faced by groups with political power in generating institutional outcomes. This line of analysis, however, is not systematically pursued. Instead, the book argues that institutions can transform themselves (p. 41) and that the institutional path that the Islamic world started down in the early Middle Ages had many unintended consequences that led to subsequent institutional bottlenecks and stagnation. This ‘black box’ approach to institutional change limits the book’s ability to provide a convincing explanation for why the key growth-impeding institutions in the Middle East were so slow to evolve. Despite all of the costs involved, Kuran notes that individuals with political power significantly altered the institutional framework in the region starting in the nineteenth century (pp. 97, 302). It is therefore plausible that these institutions could have changed earlier had such change been in the interest of individuals with political power (p. 125).

Kuran’s approach may be partly a product of an asymmetry in the book’s historical focus. Whereas Kuran primarily focuses on the Ottoman Empire in the Middle East, in Western Europe he focuses on the medieval period. A more symmetric comparison between the political and institutional equilibriums in the Medieval European and Islamic worlds yields interesting insights into the differences and similarities between Europe, Byzantium and the Middle East.

First of all, it is interesting to note that Kuran sees many similarities between institutional outcomes in the Byzantine Empire and the Middle East (p. 104). He also notes that by the late eleventh century, Venice (which had been an underdeveloped outpost of the Byzantine Empire) began to increasingly dominate trade with Byzantium. Venice and other European merchants also increasingly dominated trade with the Middle East. This fact
suggests that Western Europe gained institutional advantages over both the Islamic Middle East and the Eastern Roman Empire (Byzantium) at roughly the same time. This observation raises the interesting possibility that Western Europe was abnormal whereas the Middle East and the Byzantine Empire were both ‘normal’. In other words, rather than asking why the Middle East failed to follow the path of Europe, perhaps we should ask why Europe did not follow the path of the Middle East and Byzantium. It seems possible that the institutions Kuran suggests impeded economic development in the Middle East may have had their equivalents in other societies. To better understand this possibility, I now consider Europe before the fall of the Western Roman Empire.

The Roman Empire united the lands around the Mediterranean basin. Although scholars have noted that the Roman provinces in the west were generally less urbanized than those in the east, the institutional framework of the Roman Empire both in the East and in the West was similar in many ways. After Constantine converted to Christianity, scholars have noted that a ‘caeseropapist’ equilibrium arose and persisted in the Roman Empire even after it was divided into its Western and Eastern halves. In this equilibrium, bishops gradually replaced the previous civic governing councils. The emperors, in turn, increasingly relied on non-Romans to staff the military. It seems that by the fifth century CE bishops and the emperor (military) were the main holders of political power. In the Eastern Roman Empire this equilibrium persisted well into the medieval period.

The Roman equilibrium has striking similarities with that of the Islamic world. After the ninth century, rulers in the Islamic world used slaves (mamluks) to staff their armies while religious leaders (ulama) administered the legal system and oversaw the functioning of many urban and rural institutions. Patricia Crone — a prominent scholar of the Islamic world — has suggested that rulers in the Middle East used slaves to staff their armies in order to impede the emergence of a landed aristocracy that might have placed greater constraints on the sovereign (Crone, 2005). Sovereigns and religious leaders tailored institutions to maintain their political power and to sustain their rents in the Middle East and the Roman Empire. For example, Kuran recognizes that waqfs — one of the key institutions that he suggests led to the economic stagnation of the Middle East — particularly benefited religious leaders (p. 130). The Middle East, however, was not alone in this regard. There is substantial evidence that religious leaders in Rome and Byzantium used their political power to devise institutions that served their interests in the late Roman period.

By the ninth century CE, the institutional equilibrium in the Islamic Middle East shared several key similarities with that which had arisen in the later Roman Empire. In both regions, political power was divided between a sovereign who used foreigners to staff his armies and religious leaders. Western Europe seems to have broken free from this ‘classical’ equilibrium sometime in what used to be termed the Dark Ages. Scholars now know that
the period following the collapse of the Western Roman Empire witnessed a sharp increase in institutional innovations and economic development. In other words, the ‘Dark Ages’ seem to hold the key to understanding the seeds of the institutional innovations that Kuran suggests allowed Europe to overtake the Middle East. Kuran recognizes this, noting that incorporation movements — a key institutional development in his view — were stronger in the West because following the collapse of the Roman Empire ‘states were relatively weak’ (p. 101).

Generations of historians have stressed that Western European states were weak due to a flurry of military shocks following the collapse of the Western Roman Empire. Henri Pirenne (1980 [1939]) — a renowned Belgian historian — argued that the Islamic invasions of the Mediterranean basin in the seventh and eighth centuries broke the classical equilibrium by politically empowering the military. He provides a narrative in which the Islamic invasions led to a sharp decrease in both trade volumes and the sovereign’s tax receipts. This decrease in monetary incomes forced the sovereign to compensate the military with land, eventually leading to the rise of a landed aristocracy. Pirenne saw this process as largely complete by the reign of Charlemagne (768–814 CE).

Although subsequent scholarship has questioned much of Pirenne’s thesis, many scholars believe that the rise of a landed aristocracy constituted a key element of the ‘abnormal’ political equilibrium that arose in Europe sometime between the fifth and eleventh centuries. This ‘feudal revolution’ seems to have been largely limited to Western Europe. In any case, no such developments seem to have occurred in Byzantium or the Middle East where ‘no aristocracy developed’ (p. 79). The emergence of a landed aristocracy in Western Europe coincided with the start of institutional innovations that Kuran suggests allowed Western Europe to diverge from the Middle East. This fact, combined with the observation that the Middle East did not develop a landed aristocracy, suggests that understanding the effects of the emergence of a landed aristocracy in Western Europe and the reasons behind its lack of emergence in the Middle East may provide important insights into the institutional evolution of the Middle East.

Historians have long speculated about the reasons why al-Mutasim (who reigned 833–842 CE) decided to import Turkic slaves to replace Arab and indigenous soldiers. Perhaps even more perplexing was the spread of the use of military slaves across much of the Islamic world. These slaves, known in Arabic as mamluks (the Arabic plural is mamālīk) were imported from outside the Muslim world at a young age. Raised in military barracks and kept apart from the rest of society, military slaves were taught absolute loyalty to the sovereign. When they came of age, mamluks were set free and provided the core of many militaries across the Islamic world. Although military slaves were not always loyal to the sovereign, they did prove to be quite able militarily. Egyptian mamluks defeated both the Crusaders and the Mongols. Ibn Khaldun — the renowned historian of the fourteenth century — went
so far as to suggest that military slavery played a decisive role in preventing the political collapse of the Islamic world.

Although mamluk armies often enjoyed military success, their institutional effects seem to have been less benign. First of all, the use of these soldiers allowed the sovereign to prevent the rise of indigenous military forces. Religious leaders remained the only indigenous politically powerful group and seem to have used the threat of popular revolt to extract concessions from the sovereign. This bipartite division of political power suggests that equilibrium institutions should have jointly served the interests of both political and religious leaders.

It seems that religious leaders and the sovereign both had incentives to prevent the emergence of many of the institutions Kuran suggests allowed Western Europe to overtake the Islamic world. In the ‘classical’ equilibrium, religious leaders derived their political power (and their rents) from their control over popular support and popular coordination networks. Corporate forms of organization would have provided alternative forms of coordination and would have weakened the political influence of religious leaders. Consequently, religious leaders pressured sovereigns to suppress such organizations and the sovereigns seem to have found it optimal to support their efforts. Merchants thus seem to have been forced to use the political influence of religious leaders (and at times the sovereign) to protect their interests rather than forming corporate pressure groups themselves. The historical links between merchants and religious leaders in the Middle East is well known, and the historical record contains countless examples of religious leaders interceding with the sovereign on behalf of merchant groups. Religious leaders, however, seemed wary of allowing merchant groups to become politically powerful. It is thus plausible that the crucial institutions (such as waqfs) that Kuran views as delaying the economic development of the Middle East were designed to protect the interest of religious and political rulers. Once established, these institutions were slow to change because the incentives and the sources of rents and political power of both political and religious leaders remained unchanged.

Was the institutional equilibrium in the Middle East all that different from that in other advanced non-European regions? Although Kuran does not investigate this point in detail, his comparisons with the Byzantine Empire suggest that the answer may be no. If this is the case, then perhaps in the final analysis it was the Middle East’s political equilibrium — not Islamic law — that held back the region. In other words, Islamic law as interpreted in each period by Muslim religious leaders may have been largely endogenous to the incentives and constraints this group faced. Had the Middle East’s political equilibrium changed, the religious leaders’ interpretation of Islamic law would have also changed. Alternatively, these leaders could have lost political power and Islamic law might have ceased to be enforced.

The evolution of both the political and institutional equilibriums in Western Europe suggests the plausibility of this explanation. Following
the collapse of the Western Roman Empire, the leaders of Germanic tribes occupied the place of the Roman Emperor. The institutional framework that emerged had many similarities to both the late Roman ‘caeseropapist’ equilibrium and that which emerged in the Middle East. The clergy administered much of the institutional framework and emerged as a protector of property rights. Both sovereign and clergy seem to have resisted the emergence of the institutions that Kuran suggests led to Europe’s economic development. Shocks between the sixth and tenth centuries weakened the fiscal and military positions of sovereigns in what had been the Western Roman Empire. These shocks led to the emergence of a landed aristocracy and the beginning of the emergence of Europe’s abnormal institutional equilibrium.

How did the emergence of a landed aristocracy facilitate the institutional transformations that Kuran suggests allowed Western Europe to pull ahead of the Middle East? The landed aristocracy added another politically powerful group to the bipartite division between the sovereign and religious leaders. This ‘separation of powers’ led to a tripartite division and weakened the ability of any individual group to resist institutional innovations.

Among other consequences, this separation of powers facilitated the emergence of autonomous cities that helped empower merchants. The historical evolution of civic institutions in Milan provides one example of this process. By the tenth century the Count had lost power to local military and religious leaders. Giovanni Tabacco (1989) — a prominent historian of medieval Italy — notes that the rise of the power of the local military (landed aristocracy) led to violent conflicts between the clergy, the sovereign and military leaders. These groups enlisted the help of the merchants and the people of Milan in their struggles. This infighting between groups increased the bargaining power of both the populace and merchants. Tabacco notes that the reconciliation of 1044 between these ‘classes in conflict’ provided the ‘premise for the future commune’ and the greater empowerment of the merchant community. In his book *Medieval Cities* Henri Pirenne (1946 [1925]) suggested that this process was common across Western Europe. According to Pirenne, merchant groups used conflicts between the sovereign, nobility and the clergy to gain greater independence.

In addition to facilitating the greater autonomy of European cities, Harold Berman (1983) — a prominent scholar of the European legal system — noted the salutary effects of this tripartite separation of powers on the legal system. Prior to the separation of powers, the legal system seems to have been largely controlled by religious and military leaders. Not surprisingly, this system seems to have been designed mainly with the interests of these two groups in mind. Following the separation of powers, a plurality of legal systems arose and allowed litigants to use competition between systems to their advantage. Indeed, Berman saw this proliferation of legal systems as increasing the fairness and efficiency of the legal system. By encouraging such competition between jurisdictions, it seems likely that the tripartite division of powers aided in the development of a more equitable legal system.
Kuran stresses the importance of such a system for the development of impersonal exchange in Western Europe (pp. 238–41). This discussion suggests that the separation of powers may have facilitated the emergence of a trade-friendly institutional framework by politically empowering the merchant classes. This group seems to have used the opportunities provided by conflicts between other politically powerful groups to mould urban institutions to serve their interests. The institutions that benefited the merchant classes were also unusually beneficial to the long-run development of trade.

The preceding discussion provides a plausible explanation for why such institutions did not emerge in the Middle East. Sovereigns did not face the shocks experienced in Western Europe and were able to avoid the emergence of a landed aristocracy through the use of mamluk armies. In doing so, they prevented a European style separation of powers. Since the Middle East remained in the ‘classical’ equilibrium its merchant groups were never politically empowered. Consequently, its commercial institutional framework stagnated. The Middle East was still in this equilibrium when Napoleon landed in Egypt in 1798. In subsequent centuries, the region has witnessed breathtaking changes. Although subsequent rulers — both colonial and indigenous — worked to change parts of the existing equilibrium they did not generally embrace reforms that would have limited their political power further than necessary. Consequently, the region has remained in a political equilibrium that is in some ways similar to that which emerged in the Middle Ages.

It is difficult not to draw parallels between the responses of autocrats across the Middle East to the Arab Spring and the behaviour of rulers throughout the region’s history. Qaddafi’s retinue of foreign mercenaries resembles the slave armies used by leaders throughout Islamic history. Last-minute concessions by Syria’s al-Assad to religious authorities, such as allowing teachers to wear the head scarf and the closure of Syria’s only casino, also recall similar concessions to religious leaders to defuse tensions during periods of unrest.

In many countries in the Middle East today, autocrats backed by military force and religious leaders seem to be the main groups with political power. This political equilibrium provides insights into the reasons behind the abnormal extent to which religious dictates are publicly enforced across the region. Many of these dictates discourage competition in the ‘religious market’. As was the case historically, religious leaders today fear such competition because it might lead to conversions away from Islam and would threaten their rents. In return for state support of their monopoly, many religious leaders both discourage popular uprisings and work together with the state to discourage the emergence of ‘civil society’.

Can the persistence of this equilibrium across the Middle East be attributed to Islam? The historical narrative presented above casts some doubt on this claim. Indeed, the preferences of Christian religious leaders in the West seem to have historically been quite similar to their Muslim counterparts. If
religion seems more salient in the Middle East both historically and today it is plausibly because the political equilibrium in the region was (and remains) such that these leaders face fewer constraints. These reduced constraints allow religious leaders to implement their preferred policies to a greater degree than religious leaders (both Muslim and non-Muslim) in other areas of the world.

Kuran ends his book on an optimistic note by suggesting that growth-dampening ‘institutions can be improved, recombined, and applied to new domains creatively without opposing Islam as a religion’ (p. 302). By shedding light on how institutions in the Middle East (often referred to as Islamic law) discouraged economic development, Kuran has provided an important scholarly resource for both academics and those interested in the economic and political development of the region more broadly. Kuran is likely correct in viewing institutional changes as a key determinant of the region’s past and future economic development. Hopefully this thought-provoking book will encourage further research to advance our understanding of the region’s historical economic evolution and to help us to better understand its current challenges.

REFERENCES


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