BOOK REVIEW

THE EVOLUTION OF ISLAMIC CONSTITUTIONAL THEORY AND PRACTICE
by Kemal A. Faruki published by the National publishing House Ltd., Karachi pages 299
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As its title indicates, this book by Mr. Kemal A. Faruki is an analysis of Constitutional
tought and practice in the Muslim world from the age of the holy prophet down
to 1926. The book is divided into five parts. Part I deals with what Mr. Faruki calls
the Heroic age, that is, the age of pre-Islamic Arabs, that of the holy prophet and the age
of the first four caliphs. Part II deals with constitutional theory and practice in the
Umayyad and the Abbasid times. Part III covers the period from 1258 A.D. to 1700
A.D., that is, the end of the Mughal era. Part IV discusses the constitutional theory
and practice during the period immediately preceding the inroads of the West into the
Islamic world and the period of western ascendancy. Part V is entitled “Caliphate and
Sharia” and proceeds to describe the end of the Ottoman Caliphate. The book also con-
tains a Bibliography, a glossary of the terms used in the book and two indices, the first
being an index of persons and the second, a General index.

In the first chapter on pre-Islamic Arabia, Mr. Kemal Faruki gives a very brief
account of the position of the pre-Islamic tribal sheikh and his Majlis or Council of elders.
The chapter is much too brief and more could have been said about the system of consulta-
tion in pre-Islamic Arabia. Particular mention should have been made of the Darul
Nadwa in Mecca. The second chapter deals with the constitutional position of the
Prophet and gives a brief account of the Constitution of Medina. Mr. Kemal Faruki’s
remark in this chapter that the Qur’an commands men to submit bilā kayf (without ask-
ing why) will be controverted by many people. Actually, the Holy Qur’an in many
places explains the eminent rationality of its commands and gives reasons why its in-
junctions should be followed.

Chapter III deals with the age of the first four caliphs and shows by what process
or processes they were elected, what were their religious and temporal functions. In
this chapter Mr. Kemal Faruki rightly points out that the possibility of the removal or
reconfirmation of the leader was not considered in this age and this led to violence during
the time of the third caliph and also in later times. Perhaps it was the absence of a written
constitution that was responsible for the situation, but it is too much to expect that in
those early times people should have thought of this vital necessity.

In chapters 4 and 5 a great deal of space is devoted to the developing relations
between the Fuqahā’ (legists) and the established rulers. Mr. Faruqi rightly points out in
these chapters that only a part of the Sharia was observed by the Abbasid rulers,
although the Fuqahā’ gave unqualified support to the rulers. This was an uneasy com-
promise satisfying neither to Muslim conscience nor to the practical requirements of the
situation.

Chapter 6 deals with the late Abbasid era and examines the constitutional theories
put forward by Bāqillānī, Baghdādī, Māwardī and Ghazālī, for it is at this time that constitutional theorising began in the Muslim world. However, as Mr. Kemal Faruqi himself implies (though he does not say so clearly), Muslim political thinkers hardly evolved any theories worthy of the name. They merely justified established facts. “Constitutional writers increasingly make theory conform to practice — giving a de jure status to a merely de facto situation”. However, Mr. Faruki does not explain why this happened at all. The reason, we think, is that the ‘Ulamā’ were in close alliance with the ruling class. They had been incorporated in the governmental structure. This is true not only of the medieval age but also of the present day Muslim world. One has yet to come across intellectuals and scholars who are independent of established governments.

After examining in chapter seventh the constitutional theories of Ibn Jamā‘ah and Ibn Taimyah, Mr. Faruki passes on to a discussion of the political and constitutional structure of the Ottoman and Mughal empires in chapter VIII and comes to the conclusion that the decline of both the empires was caused by the inability of classical Islamic law to meet new situations. This, we think, is only partially true. The other big factor in the decline of these empires was the mental confinement of the Muslim scholars and ‘Ulamā’ to the prison walls of traditional sciences. They never developed a wider vision of the world they lived in than that given by the traditional lore.

The major part of the book deals with what Mr. Faruki calls “the Age of change”. In this part the author discusses the views of such scholars as Muhammad Ibn Abd-al-Wahhāb, Shah Walliyulla, Jamā‘uddin AfghKhānī, ayr al-Dīn Pasha, and Mohd ‘Abdoh. Less is said about constitutional theory proper and more space is devoted to explaining the historical background of these constitutional theories and their situational context. Thus there is an imbalance which, we think, should be rectified in the next edition of the book. An interesting theory which is not adequately discussed by the author is that of a “just dictator” put forward by Mohd ‘Abdoh. He thinks that once a just man takes over absolute power and rules dictatorially, all the injustices of Muslim Society will disappear. This is an illusion from which a large number of Muslims suffer even today. No body tries to explain how and by what process the just man will be placed in position of power and how he will continue to be just after enjoying absolute power, since absolute power corrupts absolutely. It is also forgotten that a dictator enjoys his power not by virtue of his individual personality but by virtue of the support he derives from the group or party whom he represents and it is the group or the party behind the throne that should be just. The fact is that unchecked absolute power, whether of a just or of an unjust man, never produces the desired results. Unless power and authority are controlled from below by an alert and informed public opinion, they are apt to become a law unto themselves.

After narrating in chapter 12, the events which led to the abolition of Caliphate and discussing the nature of classical Caliphate and its relevance to modern times, Mr. Kemal Faruki comes to his last chapter, “the Prospects for Sharia.” In this chapter he comes to the conclusion that “the Muwahhid, in such circumstances, instead of idolizing the wisdom of the historic community in its Ijma decisions, must re-examine them and ensure that they are revised or replaced by Ijma decisions of the living community, within its own space-time context.” This is an eminently reasonable stand which should be supported by all right thinking people.
On the whole, Mr. Kemal Faruqi's book is a valuable addition to modern Islamic literature. It is eminently readable and is free from the usual printing mistakes. We commend this book to all those who are groping their way to the solution of our problems in the light of Islam.

Mazheruddin Siddiqi.