

Book Reviews

Nadirsyah Hosen, ed. *Research Handbook on Islamic Law and Society*. Cheltenham: Edward Elgar Publishing, 2018. Pp. xi+474. Hardbound. ISBN: 978 1 78100 305 3. Price: Not listed.

Nadirsyah Hosen's edited volume aims to demonstrate different practices of Islamic law in various contexts in the contemporary world. Theoretically, he situates this book within the broader debates about Islamic law by dividing the existing scholarship between two main groups: "textualists" and "contextualists." Hosen describes textualists as literalists, who follow famous Arab reformer Muḥammad b. 'Abd al-Wahhāb (1703–1792) and hold the view that the teachings of Islam are immutable as "Muslims may change, but Islam will not" (p. 2). Contextualists, on the other hand, claim that Muslim scholars have the authority to determine mutable and immutable aspects of Islamic law based on varying contexts. Hosen in support of contextualists points to the variety of constitutional set-ups in contemporary Muslim nation states wherein the role of Islamic law differs widely from secular Turkey to theocratic Iran and Saudi Arabia. He further contends that while Islamic law does cover a spectrum of legal subjects from family law to criminal law, it has its limits as only modern regulations cover corporations, broadcasting, food production, immigration, and environment.

This book explores several topics organised into six thematic categories: i) family law and courts, ii) property and business, iii) criminal law and justice, iv) ethics, health and sciences, v) arts and education, and vi) community and public spheres. Under the first theme, the issue of legal pluralism is explored within the legal systems of Singapore, Australia, and the United Kingdom. Singapore and Australia inherited their legal tradition from the UK, yet they



adopted different approaches towards Islamic law, with Singapore acknowledging Muslim personal status laws and Australia following legal monism. The UK adopts arbitration methods in commercial as well as in family disputes. There are several arbitration institutions like the Muslim Arbitration Tribunal, the Islamic Sharia Council, and the Sharia Council of Britain in the UK whereas in Singapore, special institutions have been established to oversee the Islamic family law matters. Two chapters focus on adoption and guardianship of children under Islamic law.

The second theme concerns property and business. In his chapter, S. M. Solaiman takes an interesting approach on compatibility of Islamic law with the corporate social responsibility. He asserts that although the secular international corporate principles necessitate workplace safety, in a Muslim majority country like Bangladesh, the role of religion with its emphasis on workplace safety cannot be ignored. Contrary to this, in the next chapter, Afroza Begum points out that several principles of Islamic Banking in Bangladesh are not in line with the Islamic law. She focuses on two Islamic financing approaches: profit-and-loss sharing (PLS) and debt-based sale-lease transactions (DST). She claims that current increase of DST is against the Islamic principles, which prohibit interest and excessive risk. The last chapter under this theme sheds light on "Property Law and Trusts (*Waqf*) in Iran." In several Muslim modern states, this particular area is managed by the blend of secular laws and principles of the *sharī'ah*. Hossein Esmaeili provides the example from Iran where land ownership is regulated by Iranian Civil Code 1928. He observes that main sources of property laws and trust laws in Iran are Islamic law, Civil Code of 1928, and Iranian Constitution, albeit several government agencies at local levels also regulate property laws of Iran through decrees in particular areas, which are not easily accessible to public at large. Only lawyers practicing in those areas and government agencies have access to those decrees. He explains that in Iran there is a gap between theory and practice. He argues that while Islamic traditional law recognises private ownership, public ownership, and several other land related matters i.e., mortgages, easements, and leases, but Iran has accepted only those principles that align with modern European land laws i.e., Swiss and French laws.

The third theme, "criminal law and justice" explores, various aspects of criminal justice systems. In the introduction of the book, Hosen observes that with the advent of modern states, the ambit of traditional criminal laws under the *sharī'ah* is not limited to *ḥudūd* (fixed penalties), rather extends to the issues of corporate criminal liabilities. Muhammad Fahad has discussed the criminal laws of Saudi Arabia. He argues that the ambiguity and complexity of laws of Commercial Court to deal with corporate crimes e.g., fraud, false

advertising, bribery etc., need to be addressed. Similarly, Faisal Kutty expounds the applicability of Islamic law with reference to blasphemy and apostasy laws in Pakistan and Malaysia. He described that in Muslim majority countries, there is support for the death penalty, and the punishment for blasphemy in most of the cases is death. Based on historical analysis, he claims that the penalties for blasphemy are socially and politically influenced. The chapter stands out due to the author's attempt to provide a way forward. Kutty explained the role of human agency and *ijtihad* (independent juridical reasoning) in the development of Islamic law to make it compatible with modern human rights perspectives. The last chapter under this theme analysed the commonalities between the principles of restorative justice and Islamic justice. The authors discussed the Malaysian legal system from a historical perspective. They argue that Islamic law views victim and community as main stakeholders in a crime, and therefore, the concept of *hudūd*, *qiṣāṣ* (retaliation), and pardon has been adopted in pursuance to repress further crimes, compensate the victim, and cultivate the principle of forgiveness.

The fourth theme of the book covers the topic of “ethics, health, and sciences.” Under this theme, Nurussyariah Hammado discussed the genetic engineering with reference to its perception in Muslim majority countries like Tunisia and Saudi Arabia. She discussed the issues of abortion, child marriage, and female genital mutilation. She argues that these discriminatory practices against women are not solely influenced by religion i.e., Islam, but the social norms and culture play a cardinal role. Hammado explains this through highlighting that Tunisia's liberal approach is due to the influence of European laws whereas Saudi Arabia still follows the traditional approach giving males authority over women in family matters. Nadirsyah Hosen in his chapter “Collective *Ijtihad* on Health Issues in Indonesia” discusses the importance of collective *ijtihad* (*ijtihad jamā'ī*) in the contemporary world. This concept was based on the 1964 decision of *Majma' al-Buḥūth al-Islāmiyah* in Cairo. In collective *ijtihad*, a group of scholars exercises *ijtihad* collectively wherein all the requirements of being *mujtahid* are seen collectively by juristic acting together. He observes that *ijtihad jamā'ī* allows modern and complex problems to be resolved and tends to reduce fanaticism of schools of Islamic law. He claims that especially in the field of health, collective *ijtihad* is a viable tool to apply Islamic law considering the changing modern needs. Richard Mohar examined the interaction between legal regulation and the religious, ethical and scientific considerations with regards to food. Through the analysis of questions pertaining to free range, *halāl* food, and food safety in Australia, the author has illustrated the link between reason, religion, science, ethics, and law in a culture.

The fifth theme of the book explores arts and education in the Muslim world. Demystifying certain false notions regarding the Islamic art, Mia Corbett explained the relationship between art and Islam within the temporal, geographical, and political spheres. She argues that it is false to assume that Islam prohibits figural representation as there is no explicit prohibition of it in the Qur'ān. She points out that in premodern Muslim societies, the figural representation was common. She claims that the reason behind this false assumption can be attributed to the rigid interpretation of *ḥadīth* (Prophetic traditions), *ijmā'* (consensus), *'urf* (custom), and iconoclasm of Taliban. She concludes that as Muslim societies are changing, their understanding of Islamic art is also evolving, and modernists are focusing on various interpretations of Qur'ānic verses through *ijtihād*. In her chapter, Neneng Yanti Khozanatu Lahpan sheds light on the most debated issue of legality of music in Islam. She argues that although this issue has been discussed in depth in academic circles, few people see it through Islamic lens; rather, it is commonly understood as a part of culture. Through the example of West Java in Indonesia, Laphan shows that Islamic music can co-exist with other accepted cultural expressions of music and it influences the political and social settings as well. Maan Abdul Haq Khutani explored the rights of women to education in Muslim majority countries and specifically discussed women's status relating to this right in Saudi Arabia. He observed that Saudi Arabia ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2000. For him, it is important to find common grounds between Islamic law and human rights law to recognise and promote women's rights to education in Saudi Arabia.

Under the sixth theme, "community and public spheres" are covered. Richard Burgess discussed the practices of progressive Islam in Bosnia-Herzegovina's society. He claims that its interpretation of Islam remains compatible with its secular state model. He observes that this model shows that Islamic faith with its continual reforming phases and traditional Islamic history can be practiced all over the Europe. He argues that, no doubt, there have been tensions between the Bosnian interpretation of Islam and Saudi Salafism, but Bosnia has accepted Hanafi jurisprudence with a more tolerant, syncretic, and liberal interpretation of Islam through *ijtihād*. In the last chapter, Muhamad Ali explains the use of religious sermons, *fatwās*, and edicts as means of transmission of Islamic knowledge. He analysed the South Salawesi and Kelantan in the European and Japanese colonial periods and observed that these two genres (sermon and edicts) were used as a tool to assert the fundamental beliefs, rituals, and social relationship. He concluded that despite several categories of religious knowledge (belief, ritual, and social

relationship), the text and context of these categories are crucial as they relate to political and social issues.

The range of issues covered in this book supports Hosen's main argument that the application and interpretation of Islamic law varies across societies. This book speaks to the inherent multiplicity of Islamic law as a historical phenomenon, existing, engaging, and responding to peculiar social problems. To this end, the contributors to this volume have not merely focused on the development of Islamic law *per se*, rather they have discussed its dynamic responses to several modern changes and secular developments, demystifying the conservative notion of rigidity of Islamic law.

In this book, Hosen has compiled works from diverse Muslim societies, covering wide areas of law, from family matters to aspects of criminal justice and public law. The text, however, fails to provide an in-depth discussion of these subjects. A reader is left wanting for more structured engagement, which makes localised responses to modern challenges as *Islamic*. If one were to be charitable, one could argue that this book was meant to be a handbook, rather than a comprehensive work with a central thesis. However, this does not absolve the editor from the responsibility to exhibit the different aspects of law and society that interact to produce the multifold landscape described in various chapters of the book. In its current form, the handbook seems no different from a journal on the topics of Islamic law and society, wherein distinct articles are not related to each other in any meaningful or analytical sense. To address this deficiency, the editor could have outlined how the chapters are analytically and conceptually related to the themes developed in the handbook. For instance, perhaps a discussion on the kind of Islamic law emerging from its development in different spheres of contemporary Muslim societies could have been categorised. Indeed, Hosen could have examined whether there is an analytical category of *Islamic law* at all. These are some of the theoretical questions that should at least have been hinted at, if not comprehensively engaged with in a handbook on Islamic law and society.

Hosen effectively demonstrates the inherent multiplicity of Islamic law through differences it adopted in Muslim countries across the world. Through his variety of examples, he seamlessly establishes that the social, political, and cultural elements account for the variations of Islamic law in the Muslim world. Hosen, however, leaves some crucial questions unanswered. Further, Hosen does not make it clear as to why these themes are explored for Islamic law in society at the cost of other crucial issues such as constitutionalism and human rights in Muslim societies? Perhaps, these questions could have been addressed in the introduction of this volume. Despite its shortcomings, the Handbook serves as an interesting read, which covers a variety of important

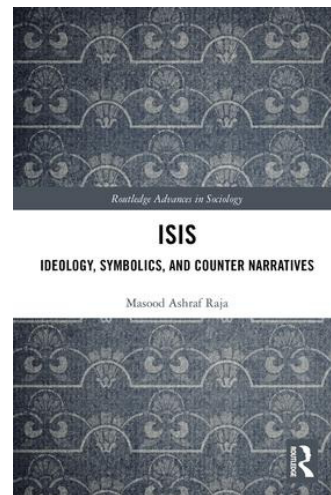
themes and topics related to the contemporary application of Islamic law across Muslim societies and countries.

Muhammad Zubair Abbasi*



Masood Ashraf Raja. *ISIS: Ideology, Symbolics, and Counter Narratives*. New York: Routledge, 2019. Pp. 150. Hardbound. ISBN: 978-1-138-48618-8. Price: \$45.47.

The Islamic State of Iraq and Syria (ISIS) has been often treated militarily or occasionally diplomatically, but rarely ideologically. *ISIS, Ideology, Symbolics, and Counter Narratives*, a book by Masood Ashraf Raja, focuses on this oft-neglected aspect, fostering conditions of ISIS ideology, its local and global catalysts, its strategies of recruitment, and proposal for a more tolerant, humane, and peaceful counter-ideology. The book is interdisciplinary: the writer employs theoretical terms from humanities and theological terms from Islam to discuss religious as well as cultural, political, global, and economic factors in the making and nurturing of ISIS. Raja argues that, unlike Western stereotype of most Muslims as terrorists, ISIS ideology only appeals to those already receptive to extremist mindset. Factors like neoliberal economy, global inequities, international financial institutions, Western foreign policies, and failed neoliberal model of education in developing countries, also helped increase ISIS recruits. The book also provides comprehensive historical overview of ideas like *jihād* and situates them in the contemporary world. Raja, who has previously served in Pakistan army, combines his knowledge of military practices and his training as a



* Associate Professor, Shaikh Ahmed Hassan School of Law, Lahore University of Management Sciences (LUMS), Lahore, Pakistan.