

BOOK REVIEWS

Understanding Sharia Processes: Women's Experiences of Family Disputes.

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Although sharia might be viewed by many Westerners and secular individuals as an antiquated, inappropriate, and irrelevant legal system in the modern secular world, Muslims everywhere hold a more positive view of the place of sharia in everyday Muslim life. The Arabic word *sharia* signifies “path” or “way,” usually a “path to watering hole.” Just as water is a life-sustaining resource, so sharia is understood as a lifeline for a righteous living and thus “a path to be followed” for personal salvation in this world and in the hereafter. From an Islamic perspective, sharia is the divine path and guidance for the entirety of humanity. It represents a quest to build a society in which individuals pursue life in conformity with God’s will and law, thereby securing salvation and divine grace. In this sense, sharia can be understood as something more than simply a collection of regulatory laws. For Muslims, it is the moral and legal guidance and represents the core of their faith. In other words, for Muslims, sharia is a way of life dedicated to positive virtue.

Understanding Sharia Processes: Women's Experiences of Family Disputes is an important contribution to the existing literature on sharia in general and on Muslims observing sharia in the West in particular. It is written by two experts on sharia—Farrah Ahmed is professor of law in the School of Law at the University of Melbourne, and Ghena Krayem is associate professor in the School of Law at the University of Sydney. Using new empirical data, Ahmed and Krayem explore Muslims’ experiences of Islamic family law processes in the context of family disputes such as marital conflict and divorce in Australian Muslim communities.

In the foreword, internationally recognized expert on sharia Julie Macfarlane, a professor of law in the Faculty of Law at the University of Windsor in Canada, acknowledges the importance of the book and how Ahmed and Krayem’s comprehensive and critical analysis provides a better understanding of the processes of sharia, their utility, and what they mean for Muslims. Using the example of Muslim women in Australia and the religious leaders and professionals working with them through marital disputes, the book serves as a sounding



board for Muslim women's concerns over family practices and marital affairs and offers them a platform to present their perspectives on Islamic family law processes within the broader context of gender stereotyping and irresponsible patriarchal practices. Macfarlane notes the meticulous documentation of the variety of sharia practices in Australian Muslim communities and that not all approaches are the same or *effective* if they are tested against the criteria of impartiality and appropriateness of response and outcomes. Importantly, she recognizes the usefulness of Ahmed and Krayem's research method as an example of the way that scholars should study and seek to understand groups who are often misrepresented and maligned in the media and who experience unfair treatment and discrimination. It is an approach that avoids *othering* minority groups and instead facilitates understanding and positive response. She also points out that issues surrounding gender roles and reckless patriarchy are not unique to the Muslim community but exist in other religious and cultural traditions, including courts.

The first of Ahmed and Krayem's seven chapters is an introduction, and in its five parts—"Concerns about Sharia Processes"; "Why Sharia Processes Exist"; "The Importance of Women's Experiences"; "Methodology"; and "Significance and Outline"—they explain their purpose: to deepen readers' understanding of the operations and functions of sharia processes via the example of a particular community and a particular facet of life: marital problems. They follow imams' attempts to mediate between feuding parties and seek reconciliation or facilitate a religious divorce; delve deep into the differing experiences of Muslim women; explore the challenges various biases have about sharia processes; examine the ways that Muslim communities discern the connection between sharia processes and those of the state; draw comparisons from Australia, Canada, and the United Kingdom; and consider reasons for sharia processes and why they generate debate.

For their study, Ahmed and Krayem used an inductive approach, conducting in-depth interviews with Muslim women, imams, and professionals such as lawyers, mediators, psychologists, and social workers. In discussing their methodology, which, as noted above, Macfarlane applauds, Ahmed and Krayem explain that it was critical to generate data using Muslim researchers with role duality as both insiders and outsiders. Doing so helped overcome mistrust and gained access to the Muslim community. They also admit that reporting the findings objectively and impartially was a struggle but achievable. Appendix A provides details of the interviewees, and Ahmed and Krayem note that more interviews were conducted with imams (twenty-one) and professionals (twenty-six) than with Muslim women (thirteen) and, as a result, the findings may disproportionately reflect the perspectives of imams and professionals.

In chapter 2, "People, Procedures and Practices," Ahmed and Krayem provide an overview of institutional operations connected to sharia processes. They start by looking at institutional functions and sharia processes in the United Kingdom, Canada, and Australia. They discuss the Australian National Imams Council, headquartered in Sydney; the Board of Imams Victoria, based in Melbourne; and the Lebanese Muslim Association, headquartered in Sydney. They present these organizations in a positive light as open and transparent in rendering their services to Muslims in Australia, although this view is not shared by many Muslim organizational heads and academics.

In chapter 3, "Women's Perspectives and Experiences," Ahmed and Krayem explain that Muslim women choose to access sharia processes essentially for religious reasons: securing a religious divorce and having a religiously satisfactory resolution. Furthermore, they explain that in secular societies such as that of Australia, Muslim women seek out sharia processes only once other avenues for resolution, such as family, friends, and, occasionally, professionals such as counselors and arbitrators, are exhausted. They thus dismiss any claim that the women they studied were coerced or the processes they studied involve coercion to use sharia processes. While this may be the case for Australia, it is important to note that

around the world, some Muslim women find themselves being forced theologically, institutionally, or socially to access sharia-based processes—something that has been confirmed in other studies about sharia and its implementation in Muslim-minority communities.

In chapter 4, “Imams’ Roles and Perspectives,” Ahmed and Krayem draw on the interviews conducted with imams to impart important insights into sharia processes and imams’ understanding of their roles and obligations in reconciliation and divorce processes. Reconciliation is an important concept as discerned from an Islamic perspective and as a principle based on the Qur’anic ethos. Imams are careful not to rush into issuing divorce, and they recommend that the parties spend some time reconsidering or seeking mediation as divorce should be the last resort.

While the focus on reconciliation might appear to some as a way to keep women in untenable situations, importantly, Ahmed and Krayem portray imams as advocates for women’s rights and their empowerment—often at the risk of criticism from the community or reprisal from the husband or his family. They highlight some deficiencies in sharia processes and suggest ways that improvements in imams’ training could benefit women by including women’s perspectives in the processes and having women scholars present in divorce proceedings and in the decision-making process.

In chapter 5, “Outcomes of Sharia Processes,” Ahmed and Krayem assess the outcomes of sharia processes and examine religious divorce, the financial rights of the wife, and child custody arrangements. They reveal that there are different divorce outcomes and their implications for women are complex. While the divorce is supposed to give the wife a religiously satisfactory resolution, noncompliance on the part of the husband or his disengagement in the reconciliatory process often prolongs the sharia processes and has an impact on the wife’s financial situation, including *mahr* (dowry), *iddah* (a period of abstinence from remarrying), and *mutah* (pleasure marriage), as well as child support, child custody, and property distribution. A woman, seeking a religious divorce can run the risk of having her financial and child custody rights compromised.

Ahmed and Krayem also look at the nature and degree of influence exercised by imams in resolving women’s divorce related issues. Often imams refer women to mediation or guide them to seek recourse through the Australian legal system, which imams claim is aligned to Islamic principles. Ahmed and Krayem find that imams in Canada and the United Kingdom make similar referrals. Thus, contrary to claims in popular culture and the media, Muslims do not seek a separate legal system that undermines state law.

In chapter 6, “Evolution and Change,” the longest chapter of the book, Ahmed and Krayem describe the transformation that occurred over the five years of their fieldwork. Whereas some Muslim scholars are of the view that sharia is immutable and unchanging, their experience tests that view. Ahmed and Krayem claim that in reality, as demonstrated via the interview evidence collected over a five-year period with imams, women engaging with sharia processes, and the professionals assisting women, there have been some important changes in sharia processes. They note that organizations such as the Australian National Imams Council’s Centre for Arbitration and the Resolution Disputes and the Board of Imams in Victoria have introduced various changes in an endeavor to improve their processes.

Specifically, Ahmed and Krayem detail the changes they noted during their research and offer some recommendations to the Australian legal system, the relevant communities, and sharia process providers. Consideration of these recommendations could improve the experiences of women using sharia processes not only in Australia but also in Canada and the United Kingdom.

In their conclusion, Ahmed and Krayem highlight their multiperspective account of sharia processes. They reiterate that women use sharia processes for a number of complex reasons, the most important of which is to secure a religious divorce. They stress that imams

play a crucial role in this, particularly in attempting to free women from problematic marriages.

Women experience some major obstacles and challenges in their attempts to use sharia processes that include inadequate gender representation in the divorce process, a lack of clarity, and their dissatisfaction with just outcomes from sharia processes. Ahmed and Krayem are critical of male-dominated panels, and hence they recommend the inclusion of more women scholars on panels and suggest that it will make a major improvement in the sharia processes.

They also make the important point from their research that sharia processes do not operate separately or in competition with state law but operate in tandem with it. Their finding is consistent with those of other studies, confirming that Muslims understand the difference between the two systems and access them accordingly.

On the whole, this is an important book explaining sharia processes, particularly in Australia, where Muslims are a minority community, comprising only 3.2 percent of the total Australian population. Ahmed and Krayem cover various issues related to the experience of Muslim women, giving the readers an important insight into the complex workings and sometimes dysfunction of sharia processes.

The utility of the book is that it provides Muslims in general—not only Muslim women—a source for understanding the operational functions of sharia processes and where and how to access these processes. Although some research on sharia processes has been already done in the United Kingdom and North America, Ahmed and Krayem's book is the first in the Australian context, thus linking the Australian Muslim experience with the current transnational debates on sharia processes. This is one of the important strengths of the book. Another is Ahmed and Krayem's empirically based research, which makes a vital and original contribution to the field.

Where the book could be improved is, largely, in further elaborating some discussion points that are dealt with rather briefly. For example, it would be helpful to have outlines of what inadequacies exist in sharia processes, divorce proceedings, and the decision-making processes and to explain how, exactly, women scholars' presence in these processes would be helpful. Indeed, the recommendation that male-dominated panels operating in sharia processes be reformed by introducing some female members needs more support. Having gender-equal panels does not guarantee just outcomes. What does guarantee just outcomes is merit-based, qualified panelists. Ahmed and Krayem's argument, which is grounded solely in gender representation, should take this into account. Similarly, Ahmed and Krayem present Muslim organizations such as the Australian National Imams Council, the Board of Imams Victoria, and the Lebanese Muslim Association in a positive light as open and transparent bodies, but they offer no details as to how this is so. I would like to know what checks and balances are in place, whether financial audits are done by credited professional organizations, and what criteria are used for the selection of imams leading these organizations.

That said, undergraduate and graduate students, researchers, academics, imams, and Muslim community workers will greatly benefit from reading *Understanding Sharia Processes*.