

and Bomhoff should tell us why he does not opt for them. One could have just as well portrayed American jurisprudence as heroically facing the reality of the complexity of law and of life and German jurisprudence as based on a paradoxical and irrational attempt to make reality perfect and coherent. The great debates of American jurisprudence, such as the Black/ Frankfurter debate, rather than being 'opaque' and 'attacking straw men', as Bomhoff describes them, could have been portrayed as promoting understanding and knowledge in the common law way – through opposing majority and dissenting opinions – and as some of the peaks of judicial prose – a clash of titans, not masking true differences by niceties and decorum. Finally, American jurisprudence, according to such an alternative account, is simply more democratic, and democracy means conflict.

It may well be that one cannot really decide between these two alternative accounts from any objective perspective. My point is, however, that the book could have benefited from a more direct engagement with some of its normative presuppositions.

China and Islam: The Prophet, the Party, and Law

By Matthew S. Erie, Cambridge and New York: Cambridge University Press, 2016. xviii + 447 pp. ISBN: 978-1-107-05337-3 \$140.00 (hardback)*

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I. Introduction

How do Muslims live under both state law and religious law, particularly where these might conflict? And in a political space where a strong state imposes its authority through law, how and where can religious law be asserted? In other words, where are the boundaries between religion, law and the state? And to what extent are these boundaries porous, or are these boundaries paradoxically more real in theory than in practice? These questions, relevant to scholars of interdisciplinary legal studies

III. Conclusion

Balancing Constitutional Rights is an important book. It contains a rich collection of facts and insights on one of the central aspects of the difference between American and European constitutional law – balancing. In particular, it offers one of the best, albeit not the easiest, inside portrayals of the German constitutional frame of mind, which is so different from the American one. I believe it will become an important reference book for researchers in the field for years to come. In this review essay, I have attempted to clarify and present some of the main moves in this rich and condensed book, and have come to the conclusion that, while masterfully portraying the two systems, Bomhoff seems to stress jurisprudential developments over socio-political ones, and adopts a more sympathetic view to German 'faith in law' than to American 'legal scepticism' – without clearly indicating that he is making any normative claims. Maybe just positioning himself more clearly in this regard could have made the more sceptical reader more at ease, knowing where the book stands.

and global religious studies, are at the centre of Matthew Erie's journey in *China and Islam*.

Erie, associate professor of modern Chinese studies at Oxford University, bases his answers to these questions on more than a decade of in-depth research and writing. His book unravels Islamic law's 'localization in Chinese society', using the case of Islamic law and ethics among Hui in north-western China (p. xiii). Erie's book draws from multiple sources, all of which are difficult to access, including more than 200 interviews with scholars, imams, clerics, teachers and jurists; Western-language and Chinese-language archival materials; and ethnographic observations at mosques, diverse Islamic teaching schools, and Sufi shrines and tombs across nearly two years of fieldwork in the north-west region of the People's Republic of China (PRC).

Research on Muslim minorities and their relationship with Islamic law has typically come from scholars of the global West who study Muslims and Islam in North America and Europe (see e.g. An-Na'im, 2014; Massoud and Moore, 2015; Moore, 2010; but see Sezgin, 2013). *China and Islam*, instead, offers

* There was an error in the title, which has now been corrected. A corrigendum has been published providing details.

a portrait of Muslim groups as religious minorities in China (see also Koesel, 2014). Unlike Koesel's comparative work on religious revival in Russia and China, Erie spotlights the social, political and economic conditions of one city – Linxia, in north-western China, whose residents refer to it as 'China's Little Mecca' (p. 1).

Linxia is both an unusual and useful place to investigate the relationship between law, religion and the state precisely because of its distinctive complexity. Linxia is a majority-Muslim city in a post-socialist country with a powerful central state authority, the Chinese Communist Party (CCP). The 'Party-State', as it is known, is an ostensibly atheist administrative body that uses law, and tones of the rule of law, to exert its own authority (see e.g. Liu and Halliday, 2016; Liu, 2016; Stern, 2013).

Broadly, Erie's argument is that a delicate dance can be observed in the relationships between Chinese state authorities and Hui, where each set of actors asserts both power over and submission to state law and non-state law, and they perform this dance in different ways across time and context. State authorities and Muslim minorities are also more similar than one would expect in such a divided context. That is, both are deeply engaged in their own projects of 'ethical cultivation' and the creation of 'authenticity', though each adopts different practices and different visions of the ethical subject (p. 132).

But not only do law and ethics matter for state authorities and religious minorities. Similarly to other fragile, extreme or authoritarian contexts (and here is Erie's central claim), it is through the relationships among legal authorities and religious authorities and between legal and religious authorities that law emerges, exists and asserts its own claims to authority. These relationships change how each group constructs ethical subjects out of citizens of faith – and, all this, in an ostensibly atheist environment.

Ultimately, state authorities – even in authoritarian and post-socialist states – are not simply concerned with setting up legal systems to exert control over citizens and territory. State authorities are paradoxically similar to the religious authorities whom they, on first glance, would seem to abhor. Both allocate and spend valuable resources, time and energy to produce 'ethical subjects' who live out ethical lives (pp. 173–174). Their views of what 'ethics' means in practice are certainly divergent, but they both seek to achieve this goal, just the same and oftentimes together.

The book's introduction summarises the author's argument, case selection and his ethnographic,

archival and interview methods. The seven substantive chapters that follow are organised thematically. Chapter 1 deals with history. Here, Erie provides an overview of Islam in China, from the imperial period to the end of the Qing Dynasty in the twentieth century. The chapter traces how the PRC's contemporary approach – one that has distinguished state from non-state law – began much earlier than the contemporary 'reformist' period of the last few decades. Across the different epochs of Chinese government, the 'relationship between state law and Islamic law ... has assumed a variety of forms, including recognition, nonrecognition, misrecognition, co-optation, competition, eradication, manipulation, codependence, and valorization' (p. 45).

Following the historical overview of Islam in China, Chapter 2 provides a more localised history of legal pluralism and 'Islamization' in Linxia (formerly Hezhou). Linxia is a majority-Muslim city of about 275,000 (p. 91). Many of its residents arrived as forced labourers (p. 98) and individual mosque communities emerged during the late imperial period (p. 100). The self-regulation of mosque communities in jurisdictional arenas outside of criminal law (p. 100) will be a familiar story for those who study how European colonial administrators used law to exert control over communities and nations in the global South (see e.g. Hussin, 2016; Massoud, 2013; Esmeir, 2012).

Chapters 3–7 deal with specific types of disputes and dispute processes in Linxia. These include disputes over ritual and funerary practices (Chapter 3); disputes over the role of religion in different teaching schools and other educational institutes run by Muslim communities and state authorities (Chapter 4); claims by women related to marriage, inheritance and divorce (Chapter 5); economic disputes in the local hide market, over Islamic-versus-CCP forms of finance and between state-versus-Hui creations of 'moral economies' (Chapter 6); and general dispute resolution procedures as the state endeavours to appropriate clerics and their knowledge of Islamic law (Chapter 7). Each of these chapters could stand alone as a paper and, as a group, they showcase different examples of the broader phenomenon of how religious and state law interact through the disputing relationships between citizens and state authorities.

II. The struggle to define law

One of the issues faced by Erie and other scholars who study how law matters in unexpected places, like Linxia, is the struggle over terminology, and

specifically how to define the contours of the term 'law'. (My own internal struggle to navigate the boundaries between law, the legal order and the rule of law are revealed in Massoud (2016).) Perhaps unsurprisingly, given the complex city Erie studies whose 'social landscape is a minefield of disputes' (p. 305), Erie defines law by investigating its boundaries, edges and peripheries. That is, Hui negotiate between state law (*guofa*) and 'minjian law' (p. 34). *Minjian* is a concept Erie admits has no easy translation, but it typically refers to 'non-state' law (pp. 16–17). Although the 'non-state' in China – as in other fragile or authoritarian contexts – is often generated outside of the state (p. 29), it is also relevant to the state because state authorities themselves simultaneously seek to control and subsume the non-state into the state, as successive regimes flex their political muscles.

Guofa and *minjian* also exist alongside *jiaofa*, roughly translated as *shari'a*. Each of these forms of law 'instructs people on how to live' (p. 18). But, like *minjian*, *shari'a* has no easy English translation. Although commonly translated as Islamic law, *shari'a* involves multiple competing guidelines, paths and ways to achieve a certain vision of ethics in one's relationship with oneself, one's community and one's faith in daily life.

In China, *shari'a* has had a complex history. As early as the imperial period, it was labelled 'Hui customary law', as *qadis* were incorporated into the Chinese bureaucracy (p. 48). By the early twentieth century, *shari'a* was still not treated as a foreign imposition, but instead as an indigenous custom of *huimin*, or those people who believe in Islam. In that way, *shari'a* early on in China seemed to be accepted as a form of indigenous or customary law. But it was the CCP that eventually would turn *shari'a* into 'non-law' (p. 85).

Perhaps in the light of *shari'a* becoming non-law, and despite its mystical and beyond-law qualities, many Hui still see it as law, as Erie himself admits. Indeed, one senior member of a local mosque confronts Erie when Erie asks the man whether *shari'a* could be accurately described as 'law'. The response that Erie documents is telling: 'We consider it law If we fail to abide by what the Qur'an says in this life, then we will be punished in the afterlife. Activities such as daily prayer, fasting, giving alms [*sadaqa*] – these we must do! If you do not think these are law, then you do not understand Islam' (p. 16, emphasis in original).

It is through conversations like these that Erie's reflections on what 'law' means tend to bend and push the boundaries of legal philosophy towards

perhaps impossible directions for legal scholars. But these boundaries and edges are precisely the spaces where Erie and other interdisciplinary legal studies scholars work, as they endeavour to find law 'off the court transcript and beyond the four corners of the legal document . . . beyond formal institutions and legal texts' (p. 353). The question emerges, then, of whether *shari'a* itself may similarly be found beyond the Islamic court transcript, beyond the Islamic legal text and beyond the Qur'an itself. These are no easy questions, and Erie's book about Hui in Linxia provides no simple answers.

III. How human beings transform law and religion

Related to the complexity of defining law is the complexity of those human beings who interpret, live and transform law. Erie's ethnography reminds the reader of the dissonance in human behaviour. In Linxia, some Muslims are simultaneously state authorities or party members. Hui civil servants face conflicting demands of career advancement and religious order, as some Hui join the CCP and are employed by the local government (p. 168). Junior civil servants work overtime but are not allowed to pray at work, largely because government offices are 'spaces of atheism' (p. 167). Details such as these remind the reader that, even in studies of law and the administrative state, the individual himself or herself is a far more complex creature than studies of politics, or even ethnography, can fully capture (see e.g. Clifford and Marcus, 1986).

IV. How states use islamic law

Erie showcases how China paradoxically as a non-Muslim post-socialist state has used Islamic law for its own ends, for more than a century. In the early twentieth century, for instance, Chinese leaders treated Islam as a form of customary law and 'the creation of registers [of mosques, tombs and Muslim organisations] and archives assist[ed] the state in monitoring Muslim populations' (p. 80). Similarly, the state's relationship with 'non-law' has changed over time as state authorities sought to embed what they had called 'non-law' into 'official' law.

And Hui themselves have had diverse views of *shari'a* found in part in competing 'teaching schools' and mosques, each negotiating its relationship with *shari'a* and with the state. Thus, the state is consistently presented with multiple and, at times,

competing visions of Islamic law. Each one of the teaching schools develops its own identity while competing with other schools for dominance in a place where state-party law is dominant and trying to dominate each of the different forms of Islamic law presented to it.

If these machinations of politics sound complicated, they are – until one realises the lengths that states go to in order to maintain power by finding and controlling other legal systems and practices. Those areas that can be controlled become part of officialdom, while those areas beyond control earn the moniker ‘unofficial’ and, thus, unacceptable. Unofficial, for Hui, however, means ‘nonconfrontational and even symbolic’ (p. 129). In other words, whether *shari’a* or *jiaofa* are under control or out of control can be revealed by their status as official or unofficial at different time periods. Indeed, governments always and everywhere try to control and limit the power of Islamic law that might exist beyond their purview, be they in Muslim-majority or, as Erie reveals, in Muslim-minority contexts. China is no exception. The related question emerges, then, whether these findings hold for Hui who live in Muslim-minority cities or villages, as opposed to Linxia, where Muslims form the city’s majority.

Relatedly, Hui themselves balance distinct and competing religious viewpoints amongst themselves while strategically showcasing another – more tolerant – face to the regime (p. 348). That is, although Erie takes great care to explain the distinctions between Hui and Uyghur, the question arises around the extent to which similar strategic partnerships could (or should) exist in places where Muslims are not only a nation’s religious minority, but also a city’s religious minority.

V. Conclusion

China and Islam is a valuable ethnographically oriented resource for students and scholars of interdisciplinary legal studies. It is also relevant to those who care about religious studies, Islamic studies, China studies or fieldwork in difficult places. It showcases how the state’s monopoly on the use of force is not an unexcused given. The state must constantly be aware of competing forces and subsume and destroy those forces – even legal forces – determined to be threats. The typical result, however, is that the state anticipates and engages in strategic partnerships with these possible threats, turning them into awkward allies of the state-building process.

Ultimately, this book is part of a growing body of scholarship revealing that Islamic law is localised, not monolithic. Similarly, the study of *shari’a* is interdisciplinary, not owned by any single discipline. Through local contests of power, the power of *shari’a* – not just as law, but as a broader code or standard of ethical living – is revealed. In the modern Chinese case, as Erie convincingly demonstrates, the state-party and Hui minority (at times, these are the same persons acting in different capacities) might at first seem dissimilar. But the legal tools that they use (including Islamic legal tools) lead them to adopt similar practices to achieve similar political goals of creating ethical subjects. The state-party and Hui are not fully antagonistic, and nor should they be. In studying these complex and often contradictory political forces and finding remarkable similarities between them, this book shatters stereotypes about China, about Islam and about the relationship between the two.

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Thatcher's Grandchildren? Politics and Childhood in the Twenty-First Century

Edited by Stephen Wagg and Jane Pilcher, Basingstoke: Palgrave Macmillan, 2014. 352 pp. ISBN: 978-1-137-28154-8 £65.00 hardback

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Introducing this collection, the editors note that it is 'a sequel' to, 'not a second edition' of, *Thatcher's Children?* (p. x; Pilcher and Wagg, 1996). And in bringing the political story of childhood up to date (focusing on 1996 to 2014) it is, perhaps inevitably, Tony Blair more than Margaret Thatcher that takes centre stage. He was, as Danny Dorling neatly reminds us here, 'born in the same year as Mrs Thatcher's twins' (p. 89) and David Rudd playfully and insightfully suggests that 'it seems more than coincidental that Blair's years as Prime Minister chime exactly with the Harry Potter publishing phenomenon (1997–2007), the former sweeping through Whitehall like a new broom, just as Harry Potter, at Hogwarts, actually rode one. Youth was in the air' (p. 121). But the extent to which he can or should be understood to be her political heir is a question that many of the contributions here grapple with. For Dorling ("What Have the Romans Ever Done for Us?" Child Poverty and the Legacy of "New" Labour) there is no doubt that New Labour is merely an 'appendage' to Thatcherism (p. 99). But other commentators, while equally attuned to increasing inequality, take a more nuanced approach.

Nigel Parton ('The Changing Politics and Practice of Child Protection and Safeguarding in England') notes that New Labour policies heralded a shift from 'dangerousness' to 'risk': a broadening of focus that legitimised increased surveillance. He then proceeds to contrast this with the approach of the Coalition government (and one might add the current government) and observes a further shift towards an authoritarian neoliberal state. Tim Newburn

('Punishment, Populism and Performance Management: "New" Labour, Youth, Crime and Justice') and Stephen Wagg ('Whiteboard Jungle: Schooling, Culture War and the Market at the Turn of the Twenty-First Century') similarly provide thoughtful overviews of the youth justice and education systems respectively, both noting changes as well as continuities. Wagg notes that people who wished to question or challenge the shifts in policies have been increasingly marginalised, and that one consequence of this has been that a 'principle setting for opposition to change visited on British schooling has been a burgeoning network of blogs, websites and pressure groups' (p. 192). The concern expressed here is salutary for academics encouraged to think about the 'impact' of their work, for how policy is made is, directly and indirectly, a theme that runs through the collection, and the collective 'finding' is that simplistic ideology trumps rigorous empirical research, or, more accurately, the latter only has 'impact' when translated or utilised to confirm and legitimise the former.

A brilliant example of this is the contribution by Val Gillies ('Troubling Families: Parenting and the Politics of Early Intervention'). She starts by helpfully noting that neoliberalism is 'a term that has been put to promiscuous and often reductive use but few can question the radical assault on social values it is intended to describe' (p. 204). Echoing Parton's analysis, she maps a shift towards increasing surveillance and the redrawing of understandings of parental privacy. But she also highlights the extent to which many of the well intentioned reforms focusing on prevention and early years intervention are premised on flimsy scientific evidence which has been crudely translated into an 'almost evangelical faith in the power of good parenting to compensate for social disadvantage' (p. 210).

In mapping the political reconfiguration of 'the family', Gillies also notes how progressive 'critiques of the family have been co-opted to propagate an advancing neoliberal ethos' (p. 206). This argument has led to spirited responses and debate elsewhere (May, 2012; Wilkinson and Bell, 2012). But in this