

Contesting Justice: Women, Islam, Law, and Society. By Ahmed Souaiaia. Albany, New York: SUNY Press, 2008. Pp. 195. \$70.00 cloth.

Reviewed by Iza Hussin, University of Massachusetts, Amherst

Studies of Islamic law for a nonspecialist readership are major undertakings for several reasons: they require clear explication of the hermeneutics and contexts of Islamic legal theory, and of the specific adaptations made within Muslim societies in history; they must avoid both the normative assumptions of “Western” theories of law and the in-speak of Islamic jurisprudence; they need to strike a balance between giving credence to the beliefs of Muslims and evaluating their political and social strategies. For all these reasons, Souaiaia’s project is daring and ambitious; its strengths, and the challenges it faces, derive from the scope of the undertaking.

The project, a study of “the limits and range of social justice in the Qur’anic, interpretive, and legal traditions” (p. 1), begins with a hypothesis shared by a number of influential works in the field of gender and Islam: that the perceived bias against women’s rights in Islamic law derives from authoritative (male) interpreters, rather than the Qur’an, which stresses justice and fair treatment (Ahmed 1992; Mernissi 1991). Through an application of historical and textual analysis and survey data in the cases of polygamy and inheritance, Souaiaia argues that this hypothesis is false. The language and concept of justice in Islamic law itself carries bias, derived from its historical and social context: “[i]n the Islamic discourse, justice is time specific . . . (it was) defined during, and did not evolve beyond, the formative period” (p. 3).

The study begins with the ways in which the Qur’an itself, as a source of law, achieves compliance, as a background to the argument that a change in the status of women in Islamic law will more likely be achieved by wider systemic and societal change, rather than legal reform narrowly construed (Chapter 1). Souaiaia’s analysis of the rhetorical and emotional force of models, paradigms, and stories that place the reader at the heart of the text, thereby increasing acceptance of its message, is original and important. In Islam as in many systems of law, compliance is achieved through multiple means—emotional, rhetorical, symbolic, institutional, and socioeconomic—and few of them overtly coercive. Souaiaia shows the unique matrixes within which the Qur’anic model of justice was developed and continues to be debated. Textual analysis of opinions offers insight into the interpretive biases of Islamic legal scholars and into the varied possibilities inherent in interpretation across schools of thought, Sunni-Shi’a divisions, and state laws.

Souaiaia prefaces this study with brief explanations of the terminology of Islamic law: these are admirably clear, and for this

reason one wishes that more clarity of history and vocabulary had come earlier in the volume than the second chapter. Explication through comparison with more familiar domains of moral and legal philosophy (Chapter 2) is an effective method, but aside from a reference to the Greeks and the Enlightenment (p. 26), it is difficult to pinpoint what Souaiaia means by “Western thought,” or why he draws such a clear dichotomy between the Western and the Islamic. While Souaiaia’s argument that the lack of distinction between the ethical and the legal requires complex methodologies for studying justice in Islamic law and society is an important caveat, it seems equally critical to make consistently clear which Muslims, which Westerners, whose law, and when.

Using survey data (pp. 79–86), Souaiaia endeavors to show that women’s participation in interpretation does not alone tip the balance in favor of women’s rights in polygamy or inheritance. Over eight years, Souaiaia collected data from 908 respondents from the United States, Morocco, Tunisia, and the United Arab Emirates: English and Arabic speakers, men and women, varied in background and age. These findings are remarkable both for what they confirmed as well as for what they denied: given the task of interpreting Qur’anic verses on inheritance, women did not favor women’s rights more than men and were more compliant with law. In fact, no demographic category—Arabic speakers, Muslim majority states, or even Muslims—correlated with gender bias in interpretation. When provided with a number of translations of the same verses, however, respondents did make significantly varied interpretations.

The eclecticism of Souaiaia’s approach may be its strength and its weakness: it contains much of value for scholars in a number of fields, and its lack of unifying narrative can at times be frustrating. It is unclear where the disciplinary heart of this book lies, and it is because of this that a number of methodological and analytic choices made seem in further need of justification. Readers interested in the role played by language may ask why Souaiaia undertakes his own translations of the Qur’an in his analysis, when elsewhere he shows that translations are highly subjective renditions. Those whose attention focuses upon the surveys taken for the latter half of the volume may ask, why *these* subjects, and what more can they tell us? The dataset may render more answers than it has: did, for example, higher access to civil institutions and education within the sample correlate with improved outcomes for women? Souaiaia recommends that “it is through educational and advocacy civil institutions that guide and encourage critical thinking and unhindered access to learning . . . that the status of women is improved” (p. 125). In a study that does much to confirm the resilience of patriarchy throughout history, such a prescription seems optimistic.

References

- Ahmed, Leila (1992) *Women and Gender in Islam: Historical Roots of a Modern Debate*. New Haven, CT: Yale Univ. Press.
- Mernissi, Fatima (1991) *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*. Oxford, United Kingdom: Blackwell.

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Legal Symbolism. On Law, Time and European Identity. By Jiri Priban. Aldershot, United Kingdom: Ashgate, 2007. Pp. 226. \$99.95 cloth.

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Here is a book that will be particularly inspiring for European scholars and policy makers. It deals innovatively and thoughtfully with an intellectual concern raised constantly, even if sometimes not systematically, by the analysis of European expansion and European integration: how do legal norms interact with political institutions and moral values in the European cultural space?

In the European Union (EU), we are spectators of increasing legalization. It is unquestionably one of the major evolutionary forces of the European landscape. However, despite the existence of a broad consensus about the importance of this force, studies about it to date have not disclosed the influence that legal norms may have upon the legitimacy of the EU. The author of this book, drawing on a large array of empirical evidence and using a subtle post-Luhmannian approach to social systems (p. x), fills this gap.

The first section of the book depicts the arrays of analytical tools that the second and third section exploit to explore a number of key questions: Is European identity constructed throughout the promotion and consolidation of legal norms that reflect the core of moral values that are supposed to constitute European identity? To what extent have policies enacted in post-communist countries been successful in transforming the memory of the past from a collective shame to a symbolic reservoir of values and ideals, which are ready to be used in the reconstruction of these nascent democracies? In which ways do legal norms interact with the political dimension of social phenomena? Is depoliticization possible, given the social ontology of the EU?

The fulcrum of the book is represented by the Luhmannian ideal of a functionally differentiated social system in which each subsystem can recursively process its own operational codes. Therefore, we should expect in principle that law, morality, and politics deal separately with the communicative inputs that are produced by a society. However, the book discusses this premise and reaches a much more critical conclusion: legal systems internalize and codify collective