

DISPENSING JUSTICE IN ISLAM: QADIS AND THEIR JUDGMENTS. Edited by Muhammad Khalid Masud, Rudolph Peters and David Stephan Powers. Brill Academic Publishers 2005. Pp. 608. \$211.00. ISBN: 9-004-14067-0.

This huge tome comes out of a conference held in Leiden in 2001. It is of forbidding size and forbidding cost, and a reader skimming its table of contents might shy from the weighty articles contained in it. That is a shame. Readers who are seriously interested in the evolution of Islamic legal systems should familiarize themselves with this volume. The book starts with an indispensable introduction to courts in the Islamic world. The articles that follow are extremely varied and in their diversity, they should offer at least one piece of interest to everyone. Furthermore, if one can make one's way through the six hundred-plus pages of this work, one sees that the articles together make an important point about the nature of judging and judgments in the Islamic world and ultimately about the diverse ways that Islamic law has been and continues to be experienced by Muslims.

The book is simply too large to summarize all of its articles. However, it should be noted that the work begins with a valuable forty-five-page introduction to the study of courts and judiciaries in the Islamic world. As the introductory chapter to a large and varied collection of articles, the significance of this article might be overlooked by people who are quickly trolling for research or teaching material on Islamic law or comparative religious law. It should not be. This introduction is jointly written in clear English by three of the leading scholars of Islamic law in the world. It gives a cogent history of judging in the Islamic world, the evolution of courts in the Islamic world up to the present day, the rules that have historically governed judges in their execution of the judicial function, and the relationship of Islamic judges to other officials in an Islamic government. It also discusses critically the evolution of scholarship about Islamic courts and current trends in scholarship—usefully contextualizing articles in the volume and situating them in the existing body of scholarship. It is not only a valuable tool for researchers needing to get situated in the field, but it could fruitfully be assigned in many advanced courses on Islamic law.

The series of articles that follows this introduction is extremely varied and, if not always user-friendly, provides a valuable set of resources for researchers and teachers. To understand the collection, it

is helpful to consider how the chapters were collected. The organizers of the conference called for papers that would contain within them a translation of a court judgment (or excerpts thereof). In the course of his or her contribution, the author was supposed to contextualize the judgment and build from the opinion to make some point about the operation of courts in one particular part of the Islamic world at a particular time. The authors of the papers in this collection include among them a significant number of the most respected scholars in the field of Islamic studies—scholars who differ in methodology and period studied. This type of assignment allowed each author to make maximum use of his or her expertise. The articles produced turn out to be a series of well-informed and generally well-written case studies of different activities by courts located in different countries and at different times in Islamic history.

The diversity of the articles contained in this volume is notable. One article looks at the operation of courts resolving a particular type of dispute in early Islamic history before the classical judicial structure had evolved. Others focus on the behavior of courts in later bureaucratic empires such as the Ottoman Empire and Islamic Spain. For those who wish to see how Islamic law is applied outside the Arab Middle East, there are articles focusing on the operation of courts in Zanzibar and Indonesia. For readers interested in the way that Islamic law is applied in contemporary nation-states, there are articles about the interpretation and application of Islamic penal codes by Pakistani judges and articles about Egyptian judges' interpretation of Islamic law.

Given the diversity of articles, it is possible that those hoping to find a cogent and linear survey of judicial organization, practice and behavior throughout Islamic history may be frustrated by this book. To help the reader, the editors not only wrote a clear introduction, but they broke the articles into four groups: (1) articles analyzing the role and performance of judges at different times and places; (2) articles describing the organization of judicial (and quasi-judicial) institutions at different times and places in Islamic history; (3) articles analyzing the ways in which abstract doctrines were applied by judges to concrete situations in different times and places in Islamic history; and, finally, (4) articles dealing with the rules of procedure and evidence as applied in different courts at various times and places. But ultimately, as an organizing method, this cannot and does not bring any real order to the profusion of rich articles. If nothing else, the categories themselves are extremely broad. Take, for example, the last category of articles on evidence and procedure. This section includes an extremely broad range

of articles. In relative terms, the articles in this last section may have more in common with each other than they do with articles in other sections. Surely an article on evidence law at one time and place in Islamic history has more in common with an article on procedural law at another time and place in Islamic history than it does with an article on the administrative organization of courts at another time and place in Islamic history. Still, that is not saying much. The articles in each section still do not fit neatly together

On the other hand, it is not clear why the diffuse nature of the articles should be counted as a failing. The eclectic quality of the collection ensures that there is something for everyone in this collection. More interestingly, it illustrates something very important about “Islamic law” as it is coming to be seen by scholars today. As the editors note in the historical introduction (4-5), one of the great advances in contemporary Islamic studies has been the move away from the traditional attempt “to view ‘Islamic law’ as an unchanging and timeless essence (with the important consequence that changes in modern times were treated as deviations from this ideal type) . . .” and instead to “look[] to local manifestations of Islamic law and attempt[] to situate the application of jurisprudence and legal doctrine in local and time-bound contexts.” This collection both illustrates that trend and vindicates it.

Anyone who makes it through this book will be struck by the diversity of Islamic court structures, modes of Islamic judicial interpretation, political or social constraints of judicial behavior in Muslim countries and, ultimately, the different results that Islamic judges reach when resolving disputes. Taken together, the articles illustrate powerfully the fact that throughout Islamic history, judges who apply Islamic law have had to mediate between the constants of Islamic law and the particulars of certain Islamic legal systems. Islamic legal and political theory themselves required judges to take into account the structural rules of a particular legal system, the social mores of a particular society, and the complexities of real legal disputes. Judges took this responsibility seriously. Placing these articles side by side, the book paints in a highly effective, pointillist fashion a picture of Islamic judges as subtle political and moral actors and a picture of Islamic law (as applied in the courts) as a body of norms that were understood and applied in highly contextualized fashion. At the end of this book, one thing is clear. Qadi courts in the Muslim world heard a range of fascinating cases, and judges often decided these cases in ways that defy the twin stereotypes (in tension with each other) of Islamic judges as formalistic thinkers and as arbitrary thinkers.

This book is written for a scholarly audience. Its style alone suggests that the authors of this book were not concerned to make the book accessible to policy makers or to ruminate about its policy implications. But that is not to say that there may not be some. And it is interesting to speculate about possible policy “take-aways.” For one, the book seems to problematize the whole idea that there can be a single “policy” approach to the wave of Islamization taking place around the world today. Increasingly, many states with Muslim populations have committed themselves to reintroducing Islamic law into their legal systems. The partisans and opponents of Islamization in Muslim countries often talk about Islamic law in simplistic fashion—as if the decision to apply Islamic law inevitably brings about certain results. Outside the Muslim world as well, Islamic law is often thought to be a set of norms that are constant and can be measured for consistency with, say, human rights norms or international banking practices.

Those who have made their way through this enormous book will appreciate how naïve this position is. Taken together, the articles in this book demonstrate that to understand what Islamization of a legal system will mean for the people in a particular country, it will be essential to know a great deal about the institutions that will be interpreting and applying the newly Islamic law. To borrow a concept from Clifford Geertz (himself borrowing from Gilbert Ryle), one who wishes to understand the ramifications of Islamization today and thus to come up with policy responses to Islamization in a particular country must be able not only to discuss Islamic texts and classical Islamic legal theory; she must also be able to provide a “thick description” of the law, taking into account the courts of the country about which one is thinking, the relationship of these courts to other formal or informal governance structures, the people who will be staffing these courts, the procedures they will apply and so on.¹

In sum, this is a somewhat unwieldy but, in numerous ways, a very valuable book. It contains a superb historical overview of courts and judiciaries in the Islamic world. Its articles are sufficiently diverse that any reader will surely find an article of interest. Furthermore, taken together, the articles prove something that should have been obvious, but based on recent scholarship and policy publications seems not to be. If one wants to understand how Islamic law is actually applied to litigants

1. For Geertz’s elaboration of the concept (which he attributes to Ryle), see Clifford Geertz, *Thick Description: Toward an Interpretive Theory of Culture*, in *Interpretation of Cultures: Selected Essays* 3, 5-6 (Basic Books 1973). For an example of Ryle’s earlier use of the term, see e.g. Gilbert Ryle, *Collected Papers*, vol. 2, 479 (Hutchinson & Co. 1971).

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(and thus what it actually means to citizens who come before courts), one must take context into account. Thus, how we feel about Islamic law and the global trend toward Islamization today should be informed by our understanding of the institutions that will be interpreting and applying it.

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