

*CONTESTING JUSTICE: WOMEN, ISLAM, LAW, AND SOCIETY.* By Ahmed E. Souaiaia. State University of New York Press 2008. Pp. 195. \$20.95. ISBN: 0-791-47398-8.

Some studies on Muslim women have assumed that the liberation of Muslim women from the oppressions of the Qur'an and Muslim men could only emerge by forcing Muslim governments to change their laws. Other studies strongly advocate for women's participation in governmental institutions and civic life where their voices on interpretations of texts including the Qur'an will cause changes in the distribution of justice and fairness regarding women. Still others assert that most, if not all, of women's disenfranchisement is a result of male domination which must be attacked. Other researchers on Muslim women, especially in the West, have discovered that the more identifiable (i.e. western) the actions of Muslim women, the greater their potential for liberation. The variations on these arguments are too numerous to name here. What is evident is that there is a contradiction between a central text, the Qur'an, that calls for social justice and traditional cultural practices that largely obscure that justice and fairness in Muslim societies, communities and families irrespective of geographical location. Equally obvious is the fact that comparing the lives of Muslim women with lives of other women is not a path for a solution.

Rationales for the circumstances of Muslim women have alternatively been placed at the feet of male interpretation of the Qur'an, patriarchy, colonialism, the threats of Western modernity and illiteracy. Analyses that base any of their positions on this list of blameworthy opponents however, have not produced a viable path. Yet, inside an unsettling green and yellow set of covers, Professor Ahmed Souaiaia presents one of the most compelling set of arguments to date. In *Contesting Justice: Women, Islam, Law, and Society*, he seeks to re-examine the arguments listed above and provide more challenging analyses. Focusing on justice and fairness, Souaiaia proposes that researchers cease to limit their attention to singular solutions such as legal reform or radical cultural reform; rather, he argues that they turn their intellectual resources to the creation and protection of civil society with a rebuilding of educational institutions that support and nurture critical thinking by men and women.

The preface begins with the definition of some often used and confused terminology. This is invaluable, especially for students. He defines a Muslim person, a Muslim community, Islam, Islamic, Islamic law, Islamicist, Islamist, Qur'anic law, legal rulings and the word *shari'ah* to name a few terms. This immediately puts readers on common ground with the text. Besides these often confused concepts, he offers his understanding of civil society and its institutions.

Souaiaia contends that it must be understood that Islamic conceptions of fairness and justice were “necessarily informed and shaped by the cultural and political environment wherein they were conceived.” (1) This time specificity and subsequent authorization by cultural tradition in the early years of Islam has served some eras of Muslim society well, but prevented any maturity with changing times, resulting in stagnation. His interrogation of this position leads him to analyze how religious texts compel believers to obey and in this particular case to pursue justice. Here he delineates what he calls “the Qur'anic communicative approach” for compliance of believers which relies on threats of torture and enticements of fulsome rewards. (23) In the introduction, we get a sense of his familiarity both with American law and its history and what of that history finds a resonance in Islamic law. We also get a sense of his mastery of religious studies and studies on liberal and conservative societies, which bring the focus of this text into a rich contextualization. He is successful in bringing those elements of the religious, philosophical, cultural and legal to bear on the subject of how these concepts inform the beliefs and practices of people.

To illustrate his point, in Chapter One, he uses a well known story among Muslims of Moses' encounter with “the knower.” In this story, Moses finds out that there is someone who is not a prophet but has another close relationship with God, one in which he knows more than Moses. It is the accepted wisdom of the Muslim community that this story has moral and possibly legal implications and Souaiaia points to the different interpretations of the story between Shiites and Sunni Muslims. Most importantly, he points to this story as one of the fundamental places where arguments emerge about a “natural” order as Moses is reminded of his place. Though no Muslim scholar would claim to know what God knows, religious scholars have come to be known as those who are closest to knowing because of years of study permitting them to provide *the* interpretation. The story of Moses and

the Knower is one place where order is established in Muslim communities. As with other religious and philosophical traditions, parables are used as models to convey what the order should be, who is privileged and who is not.

Muslims assert that “Islam governs all aspects of the adherents’ life.” (26) Islamic law and its practices have their primary foundation in the Qur’an and the Sunnah of the Prophet of Islam; and thus, law revolves around “what is said” and “how it is said.” Professor Souaiaia uses Chapter Two to discuss the relationship between ethics, morality and the law. This is one of very few texts, again, that provides readers with a comparison of both Sunni and Shi’a thought on any subject, especially law. This is a treat. In this chapter, readers are engaged in basic lessons in the logic of Islamic law and introduced to a new examination of how the Qur’an transmits God’s Will to believers through threats and enticement—a communicative method whose description began in the previous chapter.

While theology, as it relates to Qur’anic assertions, is the foundation of his approach, it is the interpretive process in the law that this text takes to task. It is here, in the law, that the explicitness of some assertions of the Qur’an are declared, interpreted and codified. This is important because once a Qur’anic assertion is categorized as “explicit,” its interpretation cannot be changed. Using two case studies, polygyny and the laws of inheritance, Souaiaia provides support for his arguments. In Chapter Three, he surveys the major interpretations of the Qur’an in relationship to polygyny. These arguments are examined for their consistency with the general tone of the Qur’an through linguistic clues. Finding that additional interpretations are patently possible, he questions their exclusion and finds that “authorizing traditions” are the culprits.

The next examination is into the laws of inheritance using the same approach and the results are the same. Religious establishments, and family adherence to the traditions they maintain, provide guidelines for ethical and moral behavior, and then together act as “a social control mechanism in Islam.” When the control mechanism is linked to the threat of torture and enticements of rewards of Paradise in the Qur’an, obedience is largely without question. Not content to lay the full support for his argument on these shoulders, Souaiaia executes a survey of over nine hundred Muslims to examine the extent of comprehension of the Qur’anic verses regarding inheritance laws.

The results are quite intriguing. This study revealed that the explicitness only addresses females and remarkably that women are bound as much as, sometimes more so, than men by cultural interpretations. One conclusion drawn from this investigation is that a female interpretive voice will not necessarily yield a result that is fair to women. This result challenges previously held notions that women's interpretation will advantage women. This is critical to the current conversation about Muslim women. Social status and class also affect their interpretations. Souaiaia found that in some critical questions, women were more conservative or limiting in the justice they were willing to accord women. In his last chapter, a modern discussion, these issues are re-examined along with the contributions of various Islamists or Islamicist scholars. The rationale for linking polygyny to inheritance law is fully explained. The apparent injustice in amounts of inheritance is called into question by a linguistic examination of the verses of the Qur'an.

Ahmed Souaiaia concludes that while colonial damage, patriarchal structures, and male dominance are indeed some of the contributing factors to the disenfranchisement of Muslim women, the solutions must be as complex and as pervasive as the problem. His call is for the creation of a new educational infrastructure specifically focused on critical thinking as a tool for women and men. Civil institutions should enable the kind of thought necessary to unlock tradition while preserving the best of it. Graduates of these institutions should be able to support competing interpretations of texts that are just and to open minds to accepting different analyses.

This text is well situated inside the Islamic discourse and references in the Qur'an in ways that are familiar to Muslims as students of Islamic studies. This is one of its strongest features. Professor Souaiaia has also developed an approach of investigation that has a known integrity. There is a sensitivity and a carefulness in his approach to this subject; yet it does not coddle in making its case. The radical and frankly improbable nature of the solutions, to the marked injustice of policies, laws, and practices regarding women is indeed carefully and insightfully conceived. Those authoritative voices, however, have perfected the art of resistance. Just as the centuries have concretized debilitating interpretations leading to unfairness and injustice, those same centuries have painted critical thinking with a stain and hammered home the threats of loss of spirituality and fear of eternal damnation for those who challenge the status quo. Nevertheless, the struggle must be waged, and Professor Souaiaia has placed himself squarely in the

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forefront. The content of this text should be the beginning of lively conversations about alternative investigations of the disenfranchisement of Muslim women. It is an excellent work of scholarship and a new gambit in the ongoing debate.

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