Although it is not well known beyond the country’s borders, in recent years there has been an efflorescence of scholarship and public debate on Islamic law in Indonesia. In the aftermath of the 1998 ouster of the authoritarian President Muhammad Soeharto, Islamist legislators in the National Assembly introduced a motion to require the government to implement Islamic law for the 88.7 percent of the country’s 244 million citizens who are Muslim. The motion failed, but Islamist parties and paramilitaries responded by launching campaigns beyond the nation’s capital to press regional governments to implement part or all of the law. Although at a provincial level, none of these initiatives has succeeded, some forty sub-provincial districts have approved shari'a legislation, the constitutional standing of which remains unclear.

Meanwhile, in an effort to dampen support for a long-running secessionist rebellion, in 2001 the national government agreed to the implementation of Islamic law in the deeply Islamic but troubled province of Aceh, which enjoys a special status as an autonomous province. Since 2003, the province’s Islamic courts, whose jurisdiction was previously limited to matters of domestic law, have extended their reach to the enforcement of regulations mandating the wearing of head coverings by women and the public caning of individuals who consume alcohol. Whether Aceh’s Islamic courts will go on to enforce some of the more draconian elements of Islamic criminal law remains a matter of dispute between the provincial and national judiciary.

Developments like these have moved the subject of Islamic law to the center of discussion in this sprawling Southeast Asian country. In an effort to place the question in a broader context, in April 2004 Michael Feener, Associate Professor of History at the National University of Singapore, and Mark Cammack, Professor of Law at the Southwestern Law School in Los Angeles, invited specialists of Indonesian Islam to a seminar held under the auspices of the Islamic Legal Studies Program at the Harvard Law School. Complemented with a short introduction by the editors and a thoughtful appendix on Islamic legal education by
Azyumardi Azra, the former rector of Jakarta’s State Islamic University, this new volume brings together expanded versions of eleven of the papers originally presented at the conference.

The editors have organized the chapters into two sections, the first on Islamic legal thought and the second on the place of Islamic courts in the broader Indonesian legal system. The range of topics addressed in the chapters is actually even more comprehensive than these section headings suggest. The chapters touch on twentieth-century Muslim legal thought (Chapter One), fiqh texts on women (Chapter Two), fatwa institutions (Chapters Three-Five), the Islamic judiciary (Chapter Eight), the Islamic law of marriage and divorce (Chapters Six and Seven), and the nature of Islamic law in the fast-changing province of Aceh (Chapters Nine-Eleven). In the course of these discussions, several of the essays engage questions of pivotal importance for scholars of Islamic law in the broader Muslim world.

The editors open the collection with the recommendation that the best approach in a country like Indonesia is not to assume that Islamic law has a stable essence of which its regional expressions are mere corruptions. Rather, and I think correctly, the editors suggest that it is more fitting to view the law in the manner of the English analytic philosopher Alasdair MacIntyre, as a “tradition” whose coherence and diversity are reshaped over time through dialogue and debate.

Somewhat more speculatively, the editors note that Indonesia provides us “with the paradigmatic example of a region that has embraced a range of interpretations of Islamic law that are extraordinarily different from those that dominated the Middle East in the classical period.” (2) This theme of interpretative diversity is illustrated well enough in the next chapter, where Michael Feener provides an engaging overview of several of the more original Muslim legal theorists in twentieth century Indonesia. In comparing this chapter’s elevated intellectual history with recent political campaigns demanding the implementation of shari’a in Indonesia, however, one is struck by how little attention the latter movements have paid to the refined formulations at the center of Feener’s account. In both their slogans and political methods, Islamist movements for the implementation of Islamic law bear a striking resemblance, and invoke the model of, their conservative counterparts in the Middle East and South Asia.

The tension in Indonesian Islamic legal discourse between a middle-brow conservatism, similar to that seen in many Muslim-
majority countries, and more Indonesian-specific legal innovation is also apparent in the chapters that deal with women, marriage law, and divorce. In a thoughtful and important essay, Nelly van Doorn-Harder discusses the efforts of activists and scholars in Indonesia’s largest Islamic organization, the Nahdlatul Ulama (NU), to reinterpret *fiqh* texts dealing with women and marriage. The most important of the texts is a nineteenth-century *kitâb* composed by one of Southeast Asia’s most prolific legal scholars, Muhammad Ibn Umar al-Nawawi. Still widely read in Indonesia’s Islamic boarding schools, the text compares a wife to “a slave marrying her master, or a weak prisoner who is helpless under someone’s power.” (38) Working under the patronage and protection of Nuriyah Abdurrahman Wahid, the First Lady of Indonesia from 1999-2001, a team of NU scholars prepared a critical revised edition of the text, and had some success at getting the new book adopted in NU-affiliated schools. After Nuriyah’s reform-minded husband was ousted from the presidency in July 2001, the leadership of the Nahdlatul Ulama experienced a conservative turn that has placed the future of this and other gender-oriented legal reforms in question.

Siti Musdah Mulia’s essay (Chapter Seven) on Muslim feminist efforts to present a draft alternative to Indonesia’s official Compilation of Islamic Law, promulgated in 1989, examines an equally tumultuous effort to reform Islamic law in light of gender-egalitarian ideals. With its provisions defining husbands and wives as equals, mandating a wife’s assent in divorce, and allowing marriages across all religious lines, the Counter Legal Draft, as it was known, excited a storm of protest in conservative and even mainstream circles. In 2005, the government quietly withdrew the Draft from legislative consideration.

Two later chapters in the volume on marriage and divorce in Indonesian Islamic courts highlight tensions similar to those touched on in the chapters by Doorn-Harder and Mulia. However, these chapters also indicate that at times, less direct challenges to legal orthodoxy may be more effective at achieving moderate legal reform. In a brilliantly argued chapter, Mark Cammack, Helen Donovan, and Tim Heaton trace the development of legal institutions for Muslim marriage and divorce in Indonesia. They demonstrate that, although in 1973 Soeharto’s “New Order” government had sought to limit the power of Islamic courts by proposing a unified law of marriage, push-back from Muslim groups forced the government to remove stipulations from the draft inconsistent with existing interpretations of Islamic law. However, in the years that followed, the Indonesian Supreme Court adopted a “distinctly different
understanding of the Marriage Act” (107) than Muslim parties to the 1973 negotiations thought they had secured. The result was that the state gradually “effected a remarkable transformation of official Indonesian Islamic marriage doctrine,” subjecting Muslim men’s traditional power of unilateral divorce to extensive restrictions, and providing wives with near-equal access to divorce. (126) The state’s efforts to change divorce behavior have been less successful, however, with half of all separating couples arranging their divorces outside of Islamic courts, in violation of state law. This chapter and Cammack’s later essay on the Indonesian Islamic judiciary (Chapter Eight), which traces the expansion of the country’s Islamic courts system from the colonial era to today, provide some of the finest analysis of the practice of Islamic law in Indonesia currently available.

Three of the book’s chapters discuss the status of Islamic law in the newly autonomous province of Aceh, the site of one of the most remarkable experiments at implementing Islamic world in contemporary Asia. John R. Bowen’s ethnographic study of local courts in the Takengen district reminds us that, for most of the modern period, judges in Aceh’s Islamic courts have drawn not just on the formal strictures of Islamic law, but local sensibilities and social practices to “provide a normative ground for rethinking the law” (191) in light of everyday realities. Moch. Nur Ichwan’s chapter on the politics of shari’a law in Aceh since 2003 shows how much new movements diverge from the traditional accommodations Bowen correctly highlights. Ichwan also observes that

There is a significant disconnect between the discourse on Shari’a for Aceh at the level of the central government and locally in Aceh. For the central government, Shari’a is principally a matter of changing the name of the Courts, not extending their jurisdiction. (201)

Most of the local religious establishment, however, remains committed to the idea that the shari’a must eventually be implemented comprehensively. (204) In this spirit, the provincial government has sponsored the formation of a shari’a police, arrested women who appear in public without head coverings, and enacted legislation that signals that at some future moment, legislation for the implementation of hudûd laws on apostasy and blasphemy will be enacted. (212)

In the next chapter, Tim Lindsey and M.B. Hooker provide a legal history of the shari’a revival in Aceh that nicely complements Ichwan’s political approach. Lindsey and Hooker explain that, even among
proponents of the law in Aceh, there are serious differences of vision, not least of all between the Governor’s office and the local religious establishment. Like Ichwan, the authors also note that implementation of the law has been characterized by “a recent, somewhat aggressive focus on . . . the public role of women.” (244) Despite this shift toward a more conservative position, the authors are less confident than Ichwan that provincial officials will be able any time soon to implement hudûd stipulations in a comprehensive manner, even though most members of the religious establishment “strongly support this.” (246)

The remaining chapters in the volume deal with diverse aspects of fatwa-making and religious authority. The Dutch historian Cees van Dijk provides a nicely balanced overview of fatwa-issuing institutions in Indonesia. He notes that, although there is a quasi-governmental agency for issuing judgments, the Majelis Ulama Indonesia (MUI), “[i]n Indonesia there is no single institution that has . . . a fatwa monopoly.” (45) In an effort to excise the taint of its earlier collaborations with the Soeharto regime, since 1998 the MUI has thrown itself into practical politics. In so doing, it has carved out a niche toward the conservative end of the religious spectrum by, among other things, decrying secularism, liberalism, and pluralism as incompatible with Islam. In his chapter, the historian Michael Laffan examines fatwas of a national organization that aspires to represent Indonesia’s reformed mystical orders. He demonstrates that, in addition to distinctive judgments explaining the relationship of angels to lightning, the organization consistently identifies the nation as a legitimate focus of their activities. (79)

One of the few gaps in this careful volume is the lack of any discussion of the radical movements that have arisen in the post-Soeharto period and demand an immediate and comprehensive implementation of Islamic law. Radical activists in groups like the Majelis Mujahidin Indonesia hope that Aceh will be but the beginning of a broader movement to implement the law. Equally important, these activists understand the law through the lens of conservative Saudi and South Asian scholarship, not Indonesia’s modern tradition of nationalist-minded Islamic scholarship.

As the editors note in their introduction, the conference at which these chapters were first presented was “the largest international conference on Islamic law in Indonesia to date. . .” (1) Notwithstanding a few minor omissions, this work is a much-needed addition to the literature on Islam in Indonesia and has established itself as a required
reference for scholars interested in the state of Islamic legal thought and practice in contemporary Indonesia.

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