Book Reviews

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Originally a doctoral thesis from SOAS, University of London, this important book is part of a recent glut of law-related studies on how Muslims in the West manage various aspects of their family relations and community organisations. Given the lingering strength of state-centric approaches that oppose such private and informal orderings, this has long been a highly politicised field of study. Published work has not always been marked by goodwill and attempts at mutual understanding, a fact which also impacts significantly for perceptive readers on how the author of the study under review tackled his chosen subject. Specifically, the almost unspoken element of distrust is flagged up just in passing (p. 7) when Keshavjee refers to the ADR controversy in Canada about a decade ago. In Canada, this resulted in the complete ban of Muslim family-based arbitration, which then led to copycat activism in seeking to ban Sharia-based forms of adjudication in places as far apart as India and the UK. That such efforts have not been successful in those jurisdictions, as we now know, confirms that Keshavjee’s core argument, namely that Sharia-based processes of ADR are valuable and productive, is sound and safe. Clearly, however, that does not mean suspension of caution about democratic safeguards.

1 For India, see the Supreme Court decision in _Vishwa Lochan Madan v. Union of India_, Writ Petition (Civil) No. 386 of 2005, tellingly decided only on 7 July 2014, and lucidly discussed by Kalindi Kokal in _Economic & Political Weekly_ 49(50) (13 December 2014), 19–21. For the UK, the unsuccessful efforts of Baroness Cox to have recourse to Sharia principles banned are discussed in depth by Ralph Grillo, _Muslim Families, Politics and the Law: A Legal Industry in Multicultural Britain_ (Farnham: Ashgate, 2015).
The book is gracefully endorsed and welcomed by a number of leading experts. As an earlier author in the same field, I cannot help noticing that some years ago, such plurality-conscious endorsements were not readily forthcoming. Notably, the late Simon Roberts of the LSE, himself a leading ADR expert, provided a brief Foreword (p. xi) emphasising the ethnographic skills of the author, whom he taught earlier on. Highly significantly, Roberts then proceeds to endorse the view that the roughly three million Muslims of Britain cannot just be expected to follow English common law with its own culture-specific character, fittingly described as ‘inevitably ethnocentric’. The key challenge is thus identified upfront: If Muslims in Britain do indeed make eclectic use of the Sharia, and nobody can really stop them, as they do so in the sphere of what Masaji Chiba so seminally identified as the legal entity of ‘unofficial law’, how can human rights safeguards and guarantees be provided and strengthened to avoid potentially intolerable abuses of semi-hidden informal jurisdictions being cultivated in the middle of London?

Keshavjee’s study takes time to answer such challenging questions, and does so only partly, but this book provides rich ethnographic evidence of how one particular British Sharia Council, the Muslim Law (Shariah) Council (MLSC) of Hounslow in West London, has handled such challenges. As an experienced senior lawyer with special training in arbitration and mediation, he is well-placed to do so. However, he also argues, sometimes rather evidently, as a Muslim ‘politician’, tempted to use the familiar but unhelpful trope of ‘misunderstandings of Islam’ to slide rather elegantly and too smoothly over key contentious issues that continue to trouble Muslims anywhere in the world. More needs to be said about that below.

The study begins, rather effectively, with the familiar case of a British Muslim woman of Pakistani descent who in the late 1970s wanted an Islamic divorce. She was harassed by her husband’s unwillingness to accept this and troubled by his efforts to extort money from her in return, more so after he learnt that her deceased father had left her some legacy. This specific scenario frequently arises because Muslims as a global community, despite claiming that men and women are equal before God, have no agreed views on whether a Muslim wife can unilaterally demand a divorce (khula), while in line with patriarchal notions husbands often enjoy almost unqualified rights to end a marriage unilaterally by talaq. An editorial team behind a recent study on Muslim women’s right to divorce found continued disagreements about this issue.2 This then leaves much space for recalcitrant husbands, as one could call

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