

Women's Rights and Religious Law: Domestic and International Perspectives. Edited by Fareda Banda and Lisa Fishbayn Joffe. Abingdon: Routledge, 2016. Pp. 328. \$145.00 (cloth). ISBN: 978-1138085977.

This collection of essays, which brings together a wide array of issues, presents important new contributions to the topic of women and religious law alongside some rehashing of familiar arguments on the threat of religious law to women's rights. The book's twelve essays are organized into three parts, each with four essays: "Gendered Rites: Gendered Rights?," "Negotiating Gender and Religion in State Law," and "Religious Divorce in Civil Courts." The majority of the essays focus on religious law in secular settings.

Although the topic of the book is women's rights and religious law generally, the collection has both a religious and a geographic focus. In terms of religion, the essays are almost exclusively focused on the three Abrahamic faiths, excluding major religions such as Hinduism, which can leave the impression that it is only the religious laws of the Abrahamic traditions that threaten women's rights (4). Furthermore, the treatment of Christianity is focused on the Anglican and Catholic Churches, with little mention of other Christian denominations, such as Evangelical Protestantism and Mormonism. While religions such as Rastafarianism and Scientology are given passing treatment in a few articles, the most substantive treatments are dedicated to Catholicism, Judaism, and Islam. Geographically, the essays focus on North America, England, Israel, Nigeria, and the African continent, without any country-specific or regional examination of Asia or South America.

The geographical focuses of the essays derive from the authors' research interests and backgrounds. For instance, Fareda Banda, author of the essay "Gender, Religion and Human Rights in Africa," was born and educated in Zimbabwe (vii). Furthermore, the perspectives are those of faculty working in the United States, Canada, England, and Israel. Several of the authors also work as practitioners and their experience as practitioners informs their scholarship. For example, Rabbi Aryeh Klapper, author of the essay "Systemic Misunderstanding between Rabbinical Courts and Civil Courts: The Perspective of an American Rabbinical Court Judge," is a member of the Boston Beit Din. Dr. Frances Raday, author of the essay "Culture, Religion and Women's International Human Rights," is a special rapporteur of the United Nations Human Rights Council.

The book's strength lies in those essays that address questions of legal pluralism and how integration of religious law into specific legal systems can serve to strengthen both. In particular, the essays in part three provide focused and specific analyses of and prescriptive remedies for the challenges women face from religious law in the described communities. While individual essays in parts one and two offer important contributions, it is the essays in part three that excel in operating as a cohesive set with internal references to each other and intertextual thematic support.

In regards to the treatment of Islam, in their introduction editors Fareda Banda and Lisa Fishbayn Joffe display an awareness and sensitivity to the ways in which discussions of law and religion "have tended to focus disproportionality on Muslim women or women in Islam," noting a tendency in the literature to perpetuate the belief that "Islam is leading the pack in the misogyny stakes" (3). Unfortunately, while Banda and Joffe highlight this problematic tendency, a few of the contributing authors fail to bring the same nuance and awareness to their essays. These authors tend to use "Islam" as a proxy for misogyny and oppression. They also fail to differentiate among the multitude of interpretations that exist within the Islamic tradition. For instance, in

her otherwise nuanced article on the concept of “complementarity” within the Catholic Church, Mary Anne Case lists “the Mormon Church, the Southern Baptists, Islam and Orthodox Judaism” together as “faith communities ... less committed to egalitarianism between the sexes,” giving the impression that all Islamic faith communities trend towards misogyny (80). Similarly, in Frances Raday’s brief discussion of the inequality between men and women in Islamic law, she fails to differentiate between classical Islamic law and the cultural practices of some Muslims (17). She broadly claims that “under Islam, women are not entitled to equal ... freedom to participate, fully and autonomously, in public life” and ascribes a regionally specific, cultural practice of imposing harsher penalties “on women than men for adultery” to all of Islam (17). This directly contrasts with those authors, such as Sarah Eltantawi, Celene Ibrahim, and Anne Saris, who carefully map the range of interpretations and motivations existing within Islamic law.

Eltantawi, as do several other authors in the collection, advocates for a nuanced approach in the relationship between religious groups and modern governments. In her essay “Between Strict Constructionist Shari’ah and Protecting Young Girls in Contemporary Northern Nigeria (ijbār),” she takes great pains to examine the specific motivations and methods of communities in Nigeria to call for and enforce an idealized shari’ah, a process she calls “political shari’ah” (91). She contextualizes the concept of orthodoxy within the “human, historical process” (91). Additionally, rather than accept calls for strict orthodoxy on their face, she examines local reactions to and acceptance of political shari’ah. For example, she finds that as regards child marriage, even those who advocate for political shari’ah acknowledge that the practice is “a result of poverty, ignorance, and an incorrect understanding of Islam” (97). She delineates the complex ethical landscape of northern Nigeria and identifies the challenges of establishing women’s rights, which cannot be accomplished simply by appeals to secular, human rights norms.

Sima Zalberg Block shows similar careful treatment of Orthodox Judaism in her essay, “Religious Coercion and Violence against Women: The Case of Beit Shemesh.” She demonstrates how the Orthodox Jewish community in Israel is suffering from internal radicalized factions. She outlines the ways in which the orthodox *haredi* community “has a wide spectrum of groups and denominations” and how a minority of zealots have managed to terrorize the “silent majority” (165). Like Eltantawi, Block contextualizes the rise of these zealots in the political, economic, and socio-legal realities of the community. She identifies the primacy of the concept of “the other” to the zealots (172). In particular, she focuses on how “women are perceived as *other*” and how policing women’s bodies directly originates out of hatred for the *other* (172). She concludes her work by drawing parallels between zealot groups in Israel’s Orthodox Jewish community and religious zealots in Muslim majority Middle Eastern countries, noting Orthodox zealots behave very similarly to Muslim zealots in their “othering” of women.

Yael Machtinger also focuses on the treatment of women in Orthodox Jewish communities. She focuses her essay, “Socio-legal Gendered Remedies to *Get* Refusal: Top Down, Bottom Up,” on the difficulties Orthodox Jewish women in Toronto face in divorce. She emphasizes the importance of legal pluralism, explaining that “a legal pluralist perspective would enable a cross-cultural encounter with a diversity of remedies at hand to alleviate abusive instances that take advantage of” gender asymmetry in religious law (236). In particular she advocates for a dual approach, which employs “legal pluralist approaches and gendered, socio-legal storytelling” (236). She argues that when these approaches are combined, they facilitate “women’s right to religion and their claims for equality in their right to divorce” (244). Her proposal provides a unique contribution to the field in proposing this dual approach as a means of best addressing the socio-legal needs of religious women.

John Eekelaar also advocates for the potential benefits of legal pluralism in his essay “Marriage, Religion and Gender Equality.” Therein, he provides insight into the particularities of English law’s

unusually strict division between religious and secular marriage. The essay describes the history of and challenges to the law, particularly as regards the requirement that religious marriages occur in buildings officially registered for such purposes, and that secular ceremonies be “entirely secular” (34). Eekelaar outlines the struggles of courts to delineate between what is religious and what is secular, and how this delineation in English marriage law impacts the “legal recognition of marriage” (37), especially among religious minorities, as religious minorities often do not officially register their buildings for such purposes and often hold their wedding ceremonies in unofficial buildings, such as their homes.

Eekelaar contends that civil and women’s rights are best upheld if all religious marriages are documented legally by the state. He describes the “continental solution” (so called due to being modeled after countries in continental Europe) advocated for by other authors, which only recognizes civil marriages as legal marriage, but argues that this solution would be “generally unpopular, especially with the churches” (38). He highlights the importance of the state recognizing religious marriage, insofar as in doing so, “the state indicates its acceptance of the group as an integral part of a diverse society” (42). He then presents an alternative approach to expand and reform the English system. While Eekelaar successfully demonstrates the flaws in the current system and the continental system and the need for reform, his proposals for reform are hazy and in need of more development. The essay’s strength lies in its claim that “recognizing marriages solemnized in accordance with community customs will be a more effective way of enhancing the reach of civil marriage law among the population, and therefore enhance gender equality while at the same time respecting diversity” (42). This approach maximizes the benefits of legal pluralism, in accommodating religious differences, while concurrently providing the protections of civil marriage.

Joffe’s essay, “The Impact of ‘Foreign Law Bans’ on the struggle for women’s equality under Jewish Law in the United States of America,” tackles the importance of state recognition of religious family law. She describes the ways in which laws “motivated by animus against Muslims . . . primar[ily] impact . . . carefully drafted protections for women under Jewish law that have the potential to benefit Muslim women as well” (182). Joffe highlights the way in which the discourse on this legislation “cloaks itself as the defender of religious women, when a complete break of the nexus between religious law and civil laws around divorce may harm the women it purports to defend” (183). In some instances, “foreign law bans” prohibit the “civil remedies [that] have been developed which support resolution of Jewish divorce disputes” and, prior to the bans, enabled more equitable access to divorce for Jewish women (185).

In contradistinction to Joffe, not all the essays in the collection agree that maintaining the nexus between religious law and civil laws serves the interest of women’s rights. Frances Raday, in her essay “Culture, Religion and Women’s International Human Rights,” treats the topic of women’s right and religious law with a broad brush, advocating for “women’s human rights to equality . . . [to] prevail in the clash with religious patriarchy” (17). Raday contends that while “individual religious leaders” may advocate for an approach more aligned with human rights, religious sects generally serve as a haven for those who would object to social changes in favor of women’s rights. Raday reviews the tension between human rights agreements, such as the UN’s 1979 Convention on the Elimination of all Forms of Discrimination against Women, and the efforts of traditionalists to maintain patriarchal norms. While Raday examines arguments favoring religious freedom exceptions to human rights agreements, she stands firmly against this “conciliatory approach,” stating, “there is no symmetry between religious values and liberal human rights values” (26). She acknowledges the work of feminists within the religious traditions to redefine and reorient religious hierarchies but argues that until they achieve such transformation, “states must provide access to justice for women who seek to enforce their rights to equality, in all spheres of life, without the

barriers created by religious patriarchy” (26). Unfortunately, Raday, with her broad focus on international human rights—much like that of several other contributors to the collection—speaks in such broad terms that her essay does not present particularly innovative arguments or revelatory research.

Similarly, Banda’s article “Gender, Religion and Human Rights in Africa” is overly broad in its approach. Banda acknowledges the dangers of speaking about the African continent as a monolith and of “mapping Western gender theory onto African societies” (46) but still proceeds to do so. In addition to speaking about African religion and cultures generally, Banda also fails to differentiate between the differences in experiences and history between Islam and Christianity on the continent.

Unlike Raday and Banda, Mary Anne Case, in “Implications of the Vatican Commitment to Complementarity for the Equality of the Sexes in Public Life,” examines a religious theory previously unchallenged in women’s right and religious law. Therein, she provides an in-depth analysis and critique of the Vatican’s adoption of “complementarity” as the status quo. Importantly, her essay documents how the idea of gender complementarity is in fact a recent development within the church, obscuring long held papal positions on gender relations. Her contribution is significant for pointing out that if left unexamined it becomes all too easy to assume that complementarity reflects a timeless and multigenerational position about gender dynamics. By utilizing a history of ideas approach, Case directly undermines the perception that complementarity is a preordained gender dynamic originating from the time of the early church. Given the persistence of “complementarity” arguments in religious communities, a comparative examination of the adoption of this doctrine in other faiths would help further challenge conceptions of the inherent truth in complementarity and its utilization to justify gender based discrimination.

While the essays mostly avoid a comparative approach, many present arguments and research that would easily lend themselves to further comparative study. For instance, a future essay putting Eltantawi’s work on political shari’ah in Northern Nigeria into conversation with Block’s work on radicalized *haredi* in Israel could help highlight the ways in which infringement of women’s right has less to do with religious law per se and more to do with historical, economic, political, and social realities. Furthermore, in looking to questions of reform of religious law, it may prove useful to put the work of Ibrahim on the *maqasid al-shari’a* (higher principles of Islamic Law) alongside the work of scholars from other faiths that look to the spirit of the law as a means of reform. Overall, the collection serves as compendium of the most recent research on the intersection of women’s rights and religious law, capturing the complexity and challenges religious laws present when they operate within the modern paradigm of women’s rights.

Rabea N. Benhalim

Doctoral student in Islamic Studies, University of Texas at Austin

William H. Hastie Fellow, University of Wisconsin Law School