Wael B. Hallaq, *The Origins and Evolution of Islamic Law,* Cambridge: Cambridge University Press, 2004. Pp. xi + 234. $70.00 cloth (ISBN 0-521-80332-2); $24.99 paper (ISBN 0-521-00580-9).

Hallaq proposes that four characters define classical Islamic law: "(1) the evolution of a complete judiciary, with a full-fledged court system and law of evidence and procedure; (2) the full elaboration of a positive legal doctrine; (3) the full emergence of a science of legal methodology and interpretation . . . and (4) the full emergence of the doctrinal legal schools" (3). We have secure testimony from Christian sources that there was some primitive form of Islamic law from the seventh century C.E., but also abundant testimony from ninth-century and later Islamic sources that none of these characters of the classical form prevailed until some time in the tenth century. For example, Hallaq points out a Kufan judge of the mid-eighth century who accepted a wife's testimony in favor of her husband against a third party, contrary to judicial practice from the ninth century onward. In the classical system, practice was governed by the Qur'an and hadith (reports of what the Prophet had said and done). Pre-classical, eighth-century practice was patently governed more by common sense and the examples of later Muslims than the Prophet. According to Hallaq, eighth-century practice was different because it still needed time for the Qur'an to sink in and the Muslims to learn to heed its precepts, particularly the one to obey the Prophet, which eventually led them to jettison alternative bases of the law.

Hallaq's treatment systematically prefers Sunni Islam. As the catholic default category into which every Muslim falls who is not a declared Khariji or Shi'i, Sunnism actually crystallized only at about the same time as classical Islamic law. The people who called themselves *ahl al-sunnah* in the ninth century were little more than one sect among others, hostile to most legal and theological speculation. Hallaq often writes not only as if Sunnism had always been there as a potential development, as doubtless it was, among a thousand other forms, but as if Islam had to end up looking Sunni. So, for example, Hallaq takes qur'anic injunctions to obey the Prophet as necessarily issuing in a religion with law as its central focus and a law based on hadith. Actually, this was historically a novel assertion when it was first advanced in the early ninth century. That was in controversy with other Muslims, principally the Mu'tazilah, who thought that Islamic law should be based on the Qur'an alone, without hadith. Contemporary and later Shi'i Muslims thought that the central focus of Islamic piety was properly one of the Prophet's descendants, while others still, Kharijis, called for a tight community of the righteous few at war with the rest of the world. There were other ways of reading the Qur'an.

Hallaq's Sunni bias leads him to overlook some developments. For example, he sketches Islamic jurisprudence, "a science of legal methodology and interpretation," by describing a series of formal hermeneutic techniques. It is a lucid, succinct description but notably ahistorical by contrast with the preceding sketch of the struggle between rationalism and traditionalism over the course of the ninth century. The first reason for an ahistorical treatment of jurisprudence is that almost no jurisprudential writing survives from the ninth century, hence it

is difficult for anyone to make out its earliest, pre-classical development. The second reason, recently exposed by Devin Stewart, has to do with why so little of the earliest jurisprudential writing has survived: before Sunni writers took it up, jurisprudence was largely the preserve of non-Sunni, Mu'tazili theologians. [Devin Stewart, "Muhammad b. Da'ud al-Zahiri's Manual of Jurisprudence," in Bernard G. Weiss, ed., *Studies in Islamic Legal Theory,* 99–158 (2002), and Devin J. Stewart, "Muhammad b. Jarir al-Tabari's *al-Bayan 'an usul al-ahkam,*" in *'Abbasid Studies,* ed. James E. Montgomery, Orientalia Lovaniensia Analecta 135, 321–49 (2004).]

Until now, the standard critical history of Islamic law has been Joseph Schacht, *The Origins of Muhammadan Law* (1950). Hallaq's study is marred by errors of detail, such as confused names and Hijri dates sloppily converted to Common Era. His controversial technique suffers from a weakness for knocking down straw men; for example, that the classical legal school depended for its existence on the establishment of the *madrasah,* a mosque endowed especially for the teaching of law, a chronological absurdity espoused by no one. But Hallaq's history has some special strengths, notably when it comes to the judiciary and the elaboration of rules in the classical schools. Inasmuch as Hallaq synthesizes an additional half-century of scholarship and because indisputably he pays attention to more aspects of Islamic law than Schacht, Hallaq's new *Origins* is the fuller work and makes serious claims to be the new standard.

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Elizabeth M. Makowski, "*A Pernicious Sort of Woman": Quasi-Religious Women and Canon Lawyers in the Later Middle Ages,* Washington, DC: Catholic University Press of America, 2005. Pp. 208. $44.95 (ISBN 0-8132-1392-4).

The term "quasi-religious" in this book's title refers to a formal status rather than degree of spiritual intensity. It means a status close to, but not identical with, membership in an officially approved religious order. Christian history has always known men and women who banded together to embrace a life different from (and often away from) that of the world. Most were monks and nuns, but the status of some other groups was unclear. Examples from the later Middle Ages include secular canons, hermits, members of military orders, *conversi,* beguines and beghards, and the tertiary Order of St. Francis. How should they be treated in the law? Should they be lumped together with monks and nuns, to be accorded the privileges and saddled with the disabilities that attended monastic status in the medieval law? Or should they be placed with the laity? Very few of them were ordained and many were not cloistered. Some of their customs deviated from monastic standards, even while they followed a semi-monastic life. Indeed their behavior and beliefs became suspect to some conservative authorities. Canon lawyers had inevitably to find a place for them in the law's scheme of things. Whether they could claim