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Comparative Religious Law: Judaism, Christianity, Islam. By Norman Doe. Cambridge: Cambridge University Press, 2018. $105.00 (cloth); $36.99 (paper); $30.00 (digital). ISBN 9781316617809.

Grant Gilmore once remarked, "In heaven there will be no law, and the lion shall lie down with the lamb. . . . In hell there will be nothing but law, and due process will be meticulously observed."[1] This prediction, simultaneously joyful and gloomy, is hardly an encouragement to take a close interest in religious law. Nonetheless the past two decades have seen a resurgence of interest in the topic—or, more accurately, in certain *aspects* of religious law (especially concerning marriage and the family). Recent proposals to introduce plural religious legal systems in Western states have generated a wide-ranging discussion spanning legal scholarship, feminist studies, and political philosophy, especially concerning equality, justice, and citizenship. Much of this literature either explicitly or implicitly problematizes religious law, treating it as primitive and patriarchal and tracks, albeit in more scholarly and understated terms, popular antipathies and assumptions. A great deal of attention has been devoted to possible inconsistencies between religious law and equality and human rights standards. Anxiety over Shari'a law has been the predominant focus,[2] although occasionally participants have recognized that the features of the problems they are addressing affect other religions, most obviously aspects of Jewish law concerning women[3] and —rarer still—the historic canon law systems that have persisted in a number of western states. The consensus appears to be that the influence of religious law needs to be confined, by external controls or by disincentivizing its use, and that it should be modernized and civilized, too—ideally from within religious communities themselves (*transformative accommodation* is one fashionable term).[4]

In the United Kingdom, religious law has been in the spotlight for much of the past two decades, due to critical reaction to multiculturalist calls for accommodation of minority religious practices.[5] When Parliament legislated for the problem of Jewish women unable to obtain a *get* in the Divorce (Religious Marriages) Act 2002 it produced a ripple of scholarly interest but no great controversy.[6]

1 Grant Gilmore, *The Ages of American Law* (New Haven: Yale University Press, 1977), 110.

2 On recognition of Shari'a law see Rex Ahdar and Nicholas Aroney, eds. *Shari'a in the West* (Oxford: Oxford University Press, 2010); Jørgen Nielsen and Lisbet Christoffersen, *Shari'a as Discourse* (Farnham: Ashgate, 2010); Robin Griffith-Jones, ed. *Islam and English Law: Rights, Responsibilities and the Place of Shari'a* (Cambridge: Cambridge University Press, 2013).

3 The problem of the *agunah* (chained wife), who is unable under Jewish law to obtain a *get* without her husband's consent (with the consequences that a subsequent marriage and descendants from a subsequent marriage are not recognized) has been extensively discussed from a comparative point of view. See H. Patrick Glenn, "Where Heavens Meet: The Compelling of Religious Divorces," *American Journal of Comparative Law* 28, no. 1 (1980); Pascale Fournier, "Halacha, the 'Jewish State' and the Canadian Agunah: Comparative Law at the Intersection of Religious and Secular Orders," *Journal of Legal Pluralism and Unofficial Law* 44, no. 65 (2012): 165–204.

4 Drawn from Ayelet Shachar, *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge: Cambridge University Press, 2001), 117–45.

5 Tariq Modood, "Multicultural Citizenship and the Shari'a Controversy in Britain," in *Shari'a in the West*, ed. Rex Ahdar and Nicholas Aroney (Oxford: Oxford University Press, 2010), 33–42, at 38.

6 On the background, see Michael Freeman, "Is the Jewish 'Get' any Business of the State?" in *Law and Religion*, ed. Richard O'Dair and Andrew Lewis (Oxford: Oxford University Press, 2001), 365–83.

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But in 2008, the then archbishop of Canterbury, Rowan Williams, unwittingly poured high octane fuel onto the smoldering embers of discontent with a scholarly but widely misunderstood lecture in which he argued that further state recognition of legal practices of religious minority communities was inevitable.[7] Since then the activities of Sharia Councils have regularly attracted suspicion, misunderstanding, and critical attention,[8] culminating in an official, independent, review which reported in 2018 and recommended disincentivizing their use, together with a combination of, education and state-promoted self-regulation.[9] As Norman Doe points out in *Comparative Religious Law: Judaism, Christianity, Islam*, this debate has left us with a number of misleading assumptions about religious law, for example, that the choice in contention is *whether* to recognize it. Rather, as his painstaking analysis establishes, there is already considerable tacit and express accommodation of religious law in England and Wales. It is misleading to say that English courts always prevail over religious tribunals.

In the burgeoning legal literature a common starting point is to examine the similarities and differences between positive law and religious law, before proceeding to consider the relationship between them.[10] However, the rediscovery that religious law is *law* opens up other possible approaches. In fact, it opens the whole range of techniques of legal scholarship: black-letter, historical, philosophical, sociological, and so on. Readers of this journal will not need to be told that scholars of Jewish law, canon law, and Islamic law have long employed doctrinal and historical approaches to their fields and that study of the interplay of civil and religious law has a much longer pedigree than recent controversies would suggest. One dimension of legal scholarship—comparativism—has, however, been largely neglected until recently.[11]

With his ambitious book, Doe aims to fill this gap by bringing a comparative approach to bear on the religious law of the three Abrahamic religions, systematically examining their approach to a variety of topics. Doe's focus is on the operation of religious law in England and Wales as he systematically examines, over various chapters, substantive topics of religious law such as membership, leadership, worship, marriage and family, rites of passage, education, the property of the faith community, and its relationship with society. Other chapters deal with comparisons between the nature of law in each religion and constitutional and adjudicative approaches and mechanisms.

7 Rowan Williams, "Civil and Religious Law in England: A Religious Perspective," *Ecclesiastical Law Journal* 10, no. 3 (2008): 262–82. For discussion, see Samia Bano, "In Pursuit of Religious and Legal Diversity: A Response to the Archbishop of Canterbury and the 'Sharia Debate' in Britain," *Ecclesiastical Law Journal* 10, no. 3 (2008): 283–309; Adam James Tucker, "The Archbishop's Unsatisfactory Legal Pluralism," *Public Law*, no. 3 (2008): 463–69.

8 Notably, Dennis MacEion, *Sharia Law or "One Law for All?"* ed. David G. Green (London: Civitas: Institute for the Study of Civil Society, 2009), and in the successive Arbitration and Mediation Services (Equality) Bills unsuccessfully introduced at Westminster by Baroness Cox. For discussion see Ralph Grillo, *Muslim Families, Politics and the Law: A Legal Industry in Multicultural Britain* (New York: Routledge, 2016), 13–38.

9 The Independent Review of the Application of Sharia Law in England and Wales, Cm. 9560 (Feb. 2018).

10 See, for example, Maleiha Malik, "Minorities and Law: Past and Present," *Current Legal Problems* 67, no. 1 (2014): 67–98; Lorenzo Zucca, *A Secular Europe: Law and Religion in the European Constitutional Landscape* (Oxford: Oxford University Press, 2012), 119–32; Ran Hirschl and Ayelet Shachar, "Competing Orders? The Challenge of Religion to Modern Constitutionalism," *University of Chicago Law Review* 85, no. 2 (2018): 425–55.

11 Previous comparative work has had a narrower focus. See, for example, Michael J. Broyde, *Sharia Tribunals, Rabbinical Courts and Christian Panels: Religious Arbitration in America and the West* (New York: Oxford University Press, 2017); Yuksel Sezgin, *Human Rights under State-Enforced Religious Family Laws in Israel, Egypt and India* (Cambridge: Cambridge University Press, 2013).

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The comparative turn is a natural development of Doe's scholarship. He is well known for having reinvigorated the study of canon law and for reintroducing formal teaching of the topic in 1990s for the first time in England and Wales since the Reformation. His distinguished previous work has moved in expanding circles: from historical and doctrinal study of the law of the Church of England, to the Anglican Communion, to the Church in Wales, and then to common general principles of Christian law.[12] Although Doe is not an expert in Jewish or Islamic law, he is nonetheless uniquely placed to undertake comparative work of this kind. There are, however, some inevitable challenges to such an enterprise, presented by the diversity of the source material—both between the three religions and among various traditions within them. It is a considerable strength of the book that it strives to fairly represent the three strands of Judaism present in the United Kingdom (that is, not only Orthodox, but also Reform and Progressive Judaism) and both Sunni and Shiʿi Islam, whereas other commentators often fall back on generalities about Jewish or Islamic law or confine their accounts to conservative religion.

A distinctive feature of the book is Doe's discussion of the variety of legal sources to be found within these religious legal traditions, especially the relevance of secondary law and soft law. This examination of regulatory and soft law yields some important insights, both over the extent of religious law and its character. He argues convincingly that religious legal instruments are "vehicles for mutual accommodation between State and religion. . . . the State would not recognise them unless they were consistent with civil law; and faith organisations would not make them if they were inconsistent with religious law" (391). Doe brings together a wealth of regulatory and quasi-legal material from individual religious communities in the United Kingdom: from synagogues in all three Jewish traditions; from a range of different Islamic organizations, societies, and mosques; and from several Christian denominations usually neglected in legal study. The claim that this is empirical work (396) is slightly overblown—at least in comparison to studies based on observation of religious tribunals in operation. Nonetheless, documenting religious community legal practice in this way fills a substantial knowledge gap and gives a firm foundation for challenging a number of misconceptions. By understanding the full extent of religious law, it is possible also to arrive at a rounder and more balanced view than accounts based predominantly on religious marriage and divorce[13] or on adjudication and arbitration processes, which have also been singled out for negative attention.[14] Doe's wider focus offers a view of the scope and relevance of religious law grounded in the distinctiveness of a religious and communal life. It also allows him to conclude by positing some common principles of religious law in a proposed charter of Abrahamic law. Inevitably these are stated at a high level of generality, but they do usefully serve to give an overview of the terrain—of greatest utility perhaps in educating those outside religious communities about the nature and reach of religious law.

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12 Respectively, Norman Doe, *The Legal Framework of the Church of England* (Oxford: Clarendon Press, 1996); Norman Doe, *Canon Law in the Anglican Communion: A Worldwide Perspective* (Oxford: Oxford University Press, 1998); Norman Doe, *The Law of the Church in Wales* (Cardiff: University of Wales Press, 2002); Norman Doe, *Christian Law: Contemporary Principles* (Cambridge: Cambridge University Press, 2013).

13 Much UK-based scholarship is focused on Sharia Councils, either in their own right or by comparison to tribunals from other religions dealing with matrimonial breakdown. See Samia Bano, *Muslim Women and Shari'ah Councils: Transcending the Boundaries of Community and Law* (Hampshire: Palgrave Macmillan, 2012); Gillian Douglas et al., "Marriage and Divorce in Religious Courts: A Case Study" *Family Law* 41, no. 9 (2011): 956–61; Gillian Douglas et al., "The Role of Religious Tribunals in Regulating Marriage and Divorce," *Child and Family Law Quarterly* 24, no. 2 (2012): 139–57.

14 Ronan McCrea, "Why the Role of Religious Tribunals in the Legal System Should Not Be Expanded," *Public Law*, no. 2 (2016): 214–22.

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Grant Gilmore may well be right: in heaven all law, religious law included, will have served its function. But for now, it is useful—a widespread and integral part of the life of religious communities. Contrary to prediction, there is little evidence of religious law fading away or being confined to the Museum of Legal Curiosities and Antiquities. Rather, as Doe's fine book demonstrates, there is every sign of it continuing to thrive and adapt. It can be safely predicted that we will need more studies of all aspects of the subject. *Comparative Religious Law* will have a prominent and distinctive place in the field and sets a high bar for future scholarship.

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