abound (for example, pp 1, 6, 25, 55 and 63). Nevertheless, Napel makes several important contributions. He paints a compelling picture of the deleterious effects of the 1960s revolution on liberalism. Anyone concerned with the fact that 'liberal' is fast becoming a term of abuse will find much to admire here. He does a very good job of collating international strands of pluralism and committing them to the defence of a strong civil society. For a fellow traveller more familiar with the Anglo-German school of pluralism (Gierke, Maitland and Figgis), the exotic sources on display are fascinating novelties. Napel's gentle conservatism never strays into polemic and this makes his timely plea for a more historically literate, culturally grounded and community-oriented vision of religious liberty all the more potent.

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Sharia Tribunals, Rabbinical Courts, and Christian Panels: Religious Arbitration in America and the West

MICHAEL J BROYDE
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In this book, Professor Broyde of Emory University School of Law, a rabbi and a judge in the United States Beth Din, explores why religious individuals and communities are increasingly turning to private faith-based arbitration. Broyde provides a thorough and rigorous analysis of both the theoretical and the practical aspects of religious arbitration. Based on his own experience and extensive research, he illuminates many of the procedural and substantive issues surrounding religious arbitration and the challenges confronting religious tribunals. This provides a welcome reference to the dynamics and potential benefits and risks of the religious arbitration process. His analysis of the benefits and risks of religious arbitration leads him to argue that religious tribunals, rather than threatening secular values, can contribute to a healthy pluralist society. Liberal, pluralistic societies, in his opinion, need to have numerous voices and traditions as part of any deliberative public discourse.

In Broyde's view, religion cannot easily be excluded from arbitration since religious arbitration, properly regulated, provides a preferable method to decide religious family disputes. Such tribunals will have a greater understanding of religious disputes and terminology. Thus, he argues that religious arbitrators, who are experts in these matters, should judge such cases rather than

secular judges. Furthermore, religious arbitration may foster greater integration of religious communities. By facilitating effective faith-based arbitration, secular societies may encourage their constituent religious communities to become more integrated into society and more moderate in their ecumenical convictions and practices. Finally, commitments to religious liberty and religious non-establishment values require liberal states to give religious arbitration the benefit of the same legal protections offered to commercial and other non-religious dispute resolutions. If society wishes to enable and encourage citizens to utilise private dispute-resolution fora rather than state courts to resolve litigious conflicts, then it must do so by putting both religious and non-religious arbitration mechanisms on an equal footing. Any other result would amount to a government attempt to repress religion. From these perspectives, Broyde argues that secular societies ought to create frameworks for legally enforceable religious arbitration.

However, Broyde acknowledges that the influence of institutional religion is often detrimental to women and that religious institutions are frequently inherently patriarchal. Thus, he concedes that, to enjoy the benefits of the secular legal framework for enforcing arbitration awards, religious arbitration tribunals must take steps to ensure that their decisions comply with the standards set by that framework and earn the respect of secular courts. These requirements may lead to religious groups that are interested in developing legally enforceable faith-based arbitration becoming engaged in dialogue with the demands set by societal norms and values. The examples of the Beth Din in the United States and the Muslim Arbitration Tribunal in the United Kingdom illustrate how religious communities can adapt and reinterpret their own traditions in order to comply with important societal demands. Thus, Broyde insists that secular society must regulate such arbitration by ensuring that the parties voluntarily agree to such arbitration in a way that indicates consent to religious arbitration and that procedural due process is followed in religious arbitration hearings.

Potential clashes between the right to free exercise of religion and the liberal rule of law in each country are always a focal point of controversy and comparison. The challenge for many societies is whether a liberal interpretation of religious law can provide a coherent and rights-based system of law. Broyde points out that, if religious arbitration went underground, it would not be subject to any sort of judicial review: the legal arbitration framework provides a form of empowerment for communities, enabling them to conduct their internal affairs in accordance with their religious commitments and practices. To be able to enforce religious arbitration awards through the courts, such tribunals must ensure that they meet the substantive and procedural standards set by the secular society for arbitration awards.

But doubts persist. Should secular society recognise the rights of diverse and frequently patriarchal religious communities to contract out of the protections offered by the general secular family-law system? Is it possible for the law of arbitration to provide religious systems with a model of secular law with which they can engage meaningfully? The application of sharia law internationally has emphasised the diversity of Islamic practice between countries and even within nations.[1] Clearly, arbitrations (as mechanisms to provide for quasi-judicial, comprehensive dispute resolution) should be subject to constitutional and human rights scrutiny. However, to allow sharia law to be the basis of family dispute arbitrations allows an arbitrator to render decisions incompatible with state family law, although subject to reversal on appeal, since arbitration statutes generally provide for limited rights of review by superior courts from arbitral awards. The parties to any arbitration may have conflicting interests but, under sharia law, they may share an interest in not allowing sharia rulings to be overturned. Religious influences may be inimical to appeals. Furthermore, arbitration may take place behind closed doors, not witnessed by the public nor supervised by any judicial authority. Such private decision-making in family law may yield unpleasant results for many women, who may be vulnerable to pressure from family members.[2] Battered women are frequently unable to choose. Linguistic barriers will also disadvantage women.[3]

In Canada, the Canadian Council of Muslim Women declared that religious family arbitration should not be permissible,[4] and many Muslim women both in Canada and abroad opposed religious arbitration in family matters on the grounds that under sharia law women are deprived of rights guaranteed to them under Canadian law. However, the Canadian legal anthropologist and law professor Anne Saris, who has described the role played by imams in resolving family disputes in Montreal, established that the Montreal imams frequently performed the function of counsellors and advisers, rather than acting in a judicial capacity, and that they played a positive educative and protective role, frequently assisting women in their interpretation of their Islamic prenuptial or marriage contracts.[5] Syed Mumtaz Ali, President of the Canadian Society of Muslims and founder of the Islamic Institute of Civil Justice stated that to

1 See N Bakht, 'Family arbitration using sharia law: examining Ontario's Arbitration Act and its impact on women', (2004) 1:1 *Muslim World Journal of Human Rights*, p 7, <https://doi.org/10.2202/1554-4419.1022>, accessed 17 October 2018.

2 See G Stopler, 'Countenancing the oppression of women: how liberals tolerate religious and cultural practices that discriminate against women', (2003) 12 *Columbia Journal of Gender & Law* 154–221 at 197.

3 See Bakht, 'Family arbitration'.

4 J-F Gaudreault-DesBiens, 'The limits of private justice? The problems of the state recognition of arbitral awards in family and personal status disputes in Ontario', (2005) 16:1 *Perspectives* 18–31.

5 A Saris, 'Challenging gender stereotypes: gender-sensitive imams and the resolution of family disputes in Montreal' in E Banda and L Fishbayn Joffe (eds), *Women's Rights and Religious Law: domestic and international perspectives* (Abingdon, 2016), pp 255–277.

deny Muslims the right to conduct sharia-based family dispute arbitrations would be a violation of the Canadian commitments to multiculturalism and religious freedom as enshrined in the Charter of Rights and Freedoms.

Referring to his own experiences and research, Broyde concludes that religious arbitration tribunals can successfully integrate secular values into their practice and procedure to do justice between the matters. Overall, this is a balanced, well-argued and carefully researched work, based on practical experience, which could be recommended reading for those researching or practising in this sensitive area of law.

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Coercion and Responsibility in Islam: A Study in Ethics and Law

Mairaj U Sayed
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Coercion and Responsibility in Islam is an interesting, if at times difficult, read. It is worth noting at the outset that, despite a concerted effort by the author to make the text accessible, if the reader has no grounding or basic understanding of Islamic jurisprudence, the concepts discussed and terms used are not always easy to understand or navigate. Nevertheless, the book provides a valuable insight into how jurists and theologians from different classical Islamic traditions approach the issue of how coercion impacts the legal and moral responsibility of an individual's actions.

The introductory text (pp 1–30) invites the reader to consider various scenarios, each of which poses, within the framework of both the civil and criminal law, a series of legal and moral dilemmas. The purpose is an attempt by the author to illustrate how the existence of coercion within the given scenarios raises a number of problems about how responsibility for a particular action ought to be treated. The author explains that what follows is essentially an examination of the reasoning underpinning Muslim theological and legal positions on four 'concrete questions', namely: whether the absence of coercion or compulsion is a condition for moral agency; how coercion ought to be defined as a matter of law; what effect coercion has on the distribution of responsibility for particular speech acts, most prominently divorce, sale and legal acknowledgement; and what effect coercion has on the distribution of responsibility