

have that the secular state (even in its less aggressive forms) is nonetheless unfriendly towards them. Audi's account of the dilemma of religious citizens in a liberal democratic state is perceptive. He builds an argument, grounded on an account of the autonomy of ethics from religion, which nevertheless acknowledges the possibility of 'divine command' ethics and gives plausible reasons why religious citizens who hold to such a view should accept ethical principles that underpin separation of religion and state and state neutrality. His examples are drawn from current US controversies (for example, teaching about evolution, school vouchers and government support for faith-based initiatives) but the same methodology could be applied to European issues. Like Zucca, Audi provides a reworking of the requirements of tolerance, which he develops in various contexts – from the workplace to international affairs. This is a rich and thought-provoking book that will repay further reading.

Whether the term 'secularism' is now so irredeemably tainted that it is beyond rescue is an open question. On the evidence here, however, the underlying questions and the debates they give rise to have a great deal of life left in them.

IAN LEIGH

Durham University

doi:10.1017/S0956618X14001033

Women, Family, and Gender in Islamic Law

JUDITH E TUCKER

Cambridge University Press, Cambridge, 2008, *Theories in Islamic Law* 3, xii + 255 pp (hardback £60) ISBN: 978-0-521-83044-7; (paperback £21.99) ISBN: 978-0-521-53747-6

In her analysis of Islamic jurisprudence and legal practice, Judith Tucker addresses a number of intersecting issues in the growing field of law and religion. As the chapter headings indicate, her approach takes gender to be a key category in the evaluation of legal systems. Accordingly, she applies a feminist critical analysis to Islamic marriage and divorce in historical and contemporary perspectives, to the legal subject under the Islamic juridical tradition and to the idea of gendered space, manifest through the regulation of female seclusion.

Tucker writes as a social historian, whose approach to the topic does not arise from a faith-based position but with a concern to elucidate the various elements which have contributed to the development of Islamic law in relation to the management of women's property rights and their freedom in matters of the body and sexuality. Tucker emphasises that her focus is on the ways in which

sharia law has been interpreted and applied, and with the ways through which religious law has been used to justify state power and the construction of gender hierarchies as they continue to be prejudicial to women. She makes it clear that her intention is not to supply an original interpretation of Islamic law, or a judgment upon the various ways in which particular Muslim jurists have understood the rules of their religion. A great strength of her treatment of sharia law is her ability to convey its complexity as a cultural system (or a series of cultural systems) functioning both as law and as religion.

In her introduction, Tucker provides a condensed overview of Western feminism. Despite a certain reductionism in its use of the labels 'liberal', 'essentialist' and 'woman-centred', this brief foray into key feminist analytical approaches is useful to frame a central component of Tucker's argument, which is that 'If we bring women, both as biology and experience, to the center, we immediately perceive the myriad ways in which law and legal instruments are dominated by male biology and experience' (p 6). Tucker strengthens this assertion through the Bourdieusian point that, historically, women in court have been disadvantaged because dominant legal discourse favours the rhetorical skills associated with male education for the public sphere. This point applies particularly to women from societies in which codified law is only one among a range of norms which govern their morality. Legal pluralism will colour Tucker's analysis throughout the book.

In the second half of the introduction, Tucker surveys the major issues in Islamic law that she will later address in detail, such as the recognised sources of divine law, the limits on interpretation, and the question of authority in doctrinal debates. The reader is introduced to Islamic legal terminology and brief mention is made of the various hermeneutical methodologies through which Islamic jurists have addressed social situations or technological innovations not explicitly mentioned in the Qur'an.

In the central chapters, Tucker covers a great deal of ground, illustrating her thesis and her analysis of marriage and divorce by reference to the classical texts, on through the influence of Ottoman interpretation and into contemporary legislation. Chapter 5 moves the discussion into territory which will be familiar to readers schooled in contemporary socio-cultural debates concerning the construction of identity, and the private/public trope in relation to the freedom to manifest religion. With a reminder of the fact that these are some of the most hotly debated issues of our time, the author offers a scholarly narrative of the gendering of space in Muslim societies, tracing a line through early doctrine, women (or their absence) in court proceedings under Ottoman rule, and recent laws regarding religious dress.

Tucker opens Chapter 5 by warning the reader not to import into a reading of traditional Islamic jurisprudence what she calls 'modern obsessions', by which she means the current social and legal focus on female seclusion, veiling and the

policing of sexuality. She points out that this ‘basket of issues’ (p 175) did not feature in traditional legal discourse or pre-modern legal practices, and the attendant issues were marginal to mainstream Islamic jurisprudence. I find this rather an odd point for a historian to make. In general, gender issues (including social constraints upon the religious and cultural freedom of women) remained, until relatively recently, a minority issue in legal theory, emerging only with real force in the framing of human rights. This *lacuna* applied across the spectrum of world cultures for a multiplicity of reasons which need not be rehearsed here, since the relevant literature on the topic is now vast, and draws from the analyses of feminist and other political theorists. Tucker goes to some length to explain the nexus between the gendering of space and a fear of the power of sexual desire. This, of course, is a well-covered aspect of Jewish, Christian and Muslim studies and Tucker is right to remind her readers that, as a rationale for ordering space, fear of sexuality invariably results in a diminution of women’s freedom of movement and, at times, the enforcement of rules of comportment to separate ‘proper’ women from any other kind.

Overall, Tucker offers the historian rich pickings in her treatment of Islamic jurisprudence in relation to women. The breadth and depth of her scholarly research is evident in a genealogical unfolding of many layers of legal tradition as they have contributed to the regulated control of women’s property, including their bodies. I recommend her book to readers who wish to deepen their understanding of present debates concerning women and gender under Islamic law.

CELIA G KENNY

Trinity College Dublin

doi:10.1017/S0956618X14001045

Religion, Education and the State: An Unprincipled Doctrine in Search of Moorings

MARK STRASSER

Ashgate Publishing Ltd, Farnham, 2011, vii + 205 pp (hardback £70) ISBN: 978-1-4094-3644-7

Religion, Education and the State offers a window into the complex and varied interpretations of the Establishment Clause in United States jurisprudence. It explores the tension between the likely intention of the Framers of the First Amendment to protect established state churches from the federal government, and the seminal *Everson* case, which extended the protections of the Establishment Clause to actions by state as well as federal government,