

## **Adjudication In Religious Family Laws Cultural Accommodation Legal Pluralism And Gender Equality In India Cambridge Studies In Law And Society**

This book is devoted to the study of the interplay between religious rules and State law. It explores how State recognition of religious rules can affect the degree of legal diversity that is available to citizens and why such recognition sometime results in more individual and collective freedom and sometime in a threat to equality of citizens before the law. The first part of the book contains a few contributions that place this discussion within the wider debate on legal pluralism. While State law and religious rules are two normative systems among many others, the specific characteristics of the latter are at the heart of tensions that emerge with increasing frequency in many countries. The second part is devoted to the analysis of about twenty national cases that provide an overview of the different tools and strategies that are employed to manage the relationship between State law and religious rules all over the world.

This collection of essays interrogates how human rights law and practice acquire meaning in relation to legal pluralism, ie, the co-existence of more than one regulatory order in a same social field. As a social phenomenon, legal pluralism exists in all societies. As a legal construction, it is characteristic of particular regions, such as post-colonial contexts. Drawing on experiences from Latin America, Sub-Saharan Africa and Europe, the contributions in this volume analyse how different configurations of legal pluralism interplay with the legal and the social life of human rights. At the same time, they enquire into how human rights law and practice influence interactions that are subject to regulation by more than one normative regime. Aware of numerous misunderstandings and of the mutual suspicion that tends to exist between human rights scholars and anthropologists, the volume includes contributions from experts in both disciplines and intends to build bridges between normative and empirical theory. The core of this edited volume originates from a special issue of the Journal of the Ottoman and Turkish Studies Association (JOTSA) that goes well beyond the special issue to incorporate the stimulating discussions and insights of two Middle East Studies Association conference roundtables and the important work of additional scholars in order to create a state-of-the-field volume on Ottoman sociolegal studies, particularly regarding Ottoman international law from the eighteenth century to the end of the empire. It makes several important contributions to Ottoman and Turkish studies, namely, by introducing these disciplines to the broader fields of trans-imperial studies, comparative international law, and legal history. Combining the best practices of diplomatic history and history from below to integrate the Ottoman Empire and its subjects into the broader debates of the nineteenth-century trans-imperial history this unique volume represents the exciting work and cutting-edge scholarship on these topics that will continue to shape the field in years to come.

This book is an urban ethnographic study of several Muslim women's organisations in northern India. These organisations work to carve out spaces that allow for the articulation of alternative experiences and conceptions of religion and justice that challenge Islamic orthodoxy as well as the monopoly of the Indian state in the domain of family law. While most analyses on reform efforts within Muslim family law in India

have focused on women's protection within the state legal system, this book offers the rare opportunity to understand how organised groups of Muslim women's rights activists contest marginalising forces present in the family and criminal courts, Shariat courts, local mosques, workplace, legislature and legal documents. It pushes against troubling assumptions that Islam is incompatible with ideas of women's rights and that the State is the only dispenser of justice, and offers new directions for studies on the dispersed nature of women's identities in Islamic family law.

Recently, new methods of dispute resolution in matters of family law-such as arbitration, mediation, and conciliation-have created new forms of legal culture that affect minority communities throughout the world. There are now multiple ways of obtaining restitution through nontraditional alternative dispute resolution (ADR) mechanisms. For some, the emergence of ADRs can be understood as part of a broader liberal response to the challenges presented by the settlement of migrant communities in Western liberal democracies. Questions of rights are framed as "multicultural challenges" that give rise to important issues relating to power, authority, agency, and choice. Underpinning these debates are questions about the doctrine and practice of secularism, citizenship, belonging, and identity. *Gender and Justice in Family Law Disputes* offers insights into how women's autonomy and personal decision-making capabilities are expressed via multiple formal and nonformal dispute-resolution mechanisms, and as part of their social and legal lived realities. It analyzes the specific ways in which both mediation and religious arbitration take shape in contemporary and comparative family law across jurisdictions. Demarcating lines between contemporary family mediation and new forms of religious arbitration, Bano illuminates the complexities of these processes across multiple national contexts.

*Adjudication in Religious Family Laws Cultural Accommodation, Legal Pluralism, and Gender Equality in India*

The interaction between individual rights, which are often seen in secular terms, and religion is becoming an important and complex topic not only for academic study but for practical policy. This volume collects a range of writings from journals, edited collections and individual books which deal with different aspects of the interaction within the context of family life, and which appear with their original pagination. These studies have been selected because they throw a sharp light on central elements of the role of religion in determining the structure of the rights of family members in relation to one another, both from an historical and contemporary perspective. While many of the writings are focused on US and European systems, selected writings covering other systems illustrate the universal nature of the topic. The studies are accompanied by a reflective commentary from the editor which sets the writings in a broad context of social, constitutional and philosophical thought, with the aim of stimulating critical thought and discussion.

Incarceration of children is rising rapidly throughout of Australia, with indigenous children most at risk of imprisonment. Indigenous and non-indigenous children have been subject to detention in both welfare and justice systems in Australian states and territories since colonization. Countless governments and human rights enquiries have attempted to address the problem of the increasing criminalization of children, with little success. David McCallum traces the history of 'problem children' over several decades, demonstrating that the categories of neglected and offending children are both linked to

similar kinds of governing. Institutions and encampments have historically played a significant role in contributing to the social problems of today. This book also takes a theoretical perspective, tracking parallel developments within the human sciences of childhood and theories of race. Applying a social theoretical analysis of these events and the changing rationalities of governing, McCallum challenges our assumptions about how law and governance of children leads to their criminalization and incarceration.

This volume shows how and why legal empowerment is important for those exercising their religious rights under various jurisdictions, in conditions of legal pluralism. At the same time, it also questions the thesis that as societies become more modern, they also become less religious. The authors look beyond the rule of law orthodoxy in their consideration of the freedom of religion as a human right and place this discussion in a more plurality-sensitive context. The book sheds more light on the informal and/or customary mechanisms that explain the limited impact of law on individuals and groups, especially in non-Western societies. The focus is on discussing how religion and the exercise of religious rights may or may not empower individuals and social groups and improve access to human rights in general. This book is important reading for academics and practitioners of law and religion, religious rights, religious diversity and cultural difference, as well as NGOs, policy makers, lawyers and advocates at multicultural jurisdictions. It offers a contemporary take on comparative legal studies, with a distinct focus on religion as an identity marker.

Presents a robust defence of the essential place of stable marital families in modern liberal societies.

This accessible account of the war in Iraq argues that US military actions constituted a criminal war of aggression.

Analyses religious law in colonial India, exploring how it encouraged gender equality and a rethinking of the relationship between state and society.

This book assembles a range of work by researchers who have entered the social worlds of global organizations.

Multiculturalism is a concept that has been stretched to include a variety of political conditions, mainly in countries that have liberal democratic political systems and traditions. In this North/South 'comparison' we illuminate remedies pursued by governments and various political interests to address the binary. Tensions of culture and rights may not be the same everywhere. An interesting point of comparison is in the treatment of liberalism – often assumed in the global North to be the universal norms to be defended, whereas in the global South, liberalism itself may be viewed as the problem. Colonial histories are fraught with discriminatory legislation aimed at accommodating indigenous populations, often a trade-off for more structural redistributive justice through, for example, land reform. In Africa, for example, the codification of customary law has reinforced misogynistic and static interpretations of 'African culture'. This book will show how varied and complex the embodiment of multiculturalism as a political practice, or policy discourse in different political contexts can be, and how often the outcome of multicultural discourses creates a binary between culture and universal human rights. The aim of this book is to grapple with dislodging this binary. This book was published as a special issue of *Politikon*.

The first major historical account of gender politics during the Nasser era, *Revolutionary Womanhood* analyzes feminism as a system of ideas and political practices, international in origin but local in iteration. Drawing connections between the secular nationalist projects that emerged in the 1950s and the gender politics of Islamism today, Laura Bier reveals how discussions about education, companionate marriage, and enlightened motherhood, as well as veiling, work, and other means of claiming public space created opportunities to reconsider the

relationship between modernity, state feminism, and postcolonial state-building. Bier highlights attempts by political elites under Nasser to transform Egyptian women into national subjects. These attempts to fashion a "new" yet authentically Egyptian woman both enabled and constrained women's notions of gender, liberation, and agency. Ultimately, Bier challenges the common assumption that these emerging feminisms were somehow not culturally or religiously authentic, and details their lasting impact on Egyptian womanhood today.

What can lawyers and sociologists learn from each other about religion in the twenty-first century?

Examines gift exchanges as a foundational notion both in anthropology and in debates about international economic governance. This title is also available as Open Access on Cambridge Core.

Where, when, and how is the law practiced? An investigation of how truths are made in the legal system.

This book studies recent transformations in the area of law and gender in modern India. It tackles legal and social developments with regard to family life, sexuality, motherhood, surrogacy, erotic labour, sexual harassment in the workplace and violence against women, among others. It analyses reform efforts towards women's and LGBTIQ rights and attempts to situate where a reform has taken place, by whom it was brought about, and what impact it has had on society. It engages with protagonists who shape the debate around law and gender and locate their efforts into a socio-political context, thereby showing that the discourses around law and gender are closely connected to broader debates around pluralism, secularism and religion, identity, culture, nationalism, and family. The book offers compelling evidence that the drivers of change are emerging from beyond the traditional institutions of courts and parliament, and that to understand the everyday implications of gender based reform, it is important to look beyond only these institutional sources.

Most Muslim-majority countries have legal systems that enshrine both Islam and liberal rights. While not necessarily at odds, these dual commitments nonetheless provide legal and symbolic resources for activists to advance contending visions for their states and societies. Using the case study of Malaysia, *Constituting Religion* examines how these legal arrangements enable litigation and feed the construction of a 'rights-versus-rites binary' in law, politics, and the popular imagination. By drawing on extensive primary source material and tracing controversial cases from the court of law to the court of public opinion, this study theorizes the 'judicialization of religion' and the radiating effects of courts on popular legal and religious consciousness. The book documents how legal institutions catalyze ideological struggles, which stand to redefine the nation and its politics. Probing the links between legal pluralism, social movements, secularism, and political Islamism, *Constituting Religion* sheds new light on the confluence of law, religion, politics, and society. This title is also available as Open Access.

While there are many books on Islamic family law, the literature on its enforcement is scarce. This book focuses on how Islamic family law is interpreted and applied by judges in a range of Muslim countries – Sunni and Shi'a, as well as Arab and non-Arab. It thereby aids the understanding of shari'a law in practice in a number of different cultural and political settings. It shows how the existence of differing views of what shari'a is, as well as the presence of a vast body of legal material which judges can refer to, make it possible for courts to interpret Islamic law in creative and innovative

Divorcing Traditions is an ethnography of Islamic legal expertise and practices in India, a secular state in which Muslims are a significant minority and where Islamic judgments are not legally binding. Katherine Lemons argues that an analysis of divorce in accordance with Islamic strictures is critical to the understanding of Indian secularism. Lemons analyzes four marital dispute adjudication forums run by Muslim jurists or lay Muslims to show that religious law does not muddle the categories of religion and law but generates them. Drawing on ethnographic and archival research conducted in these four institutions—NGO-run women's arbitration centers (mahila panchayats); sharia courts (dar ul-qazas); a Muslim jurist's authoritative legal opinions (fatwas); and the practice of what a Muslim legal expert (mufti) calls "spiritual healing"—Divorcing Traditions shows how secularism is an ongoing project that seeks to establish and maintain an appropriate relationship between religion and politics. A secular state is always secularizing. And yet, as Lemons demonstrates, the state is not the only arbiter of the relationship between religion and law: religious legal forums help to constitute the categories of private and public, religious and secular upon which secularism relies. In the end, because Muslim legal expertise and practice are central to the Indian legal system and because Muslim divorce's contested legal status marks a crisis of the secular distinction between religion and law, Muslim divorce, argues Lemons, is a key site for understanding Indian secularism.

Around the world, discriminatory legislation prevents women from accessing their human rights. It can affect almost every aspect of a woman's life, including the right to choose a partner, inherit property, hold a job, and obtain child custody. Often referred to as family law, these laws have contributed to discrimination and to the justification of gender-based violence globally. This book demonstrates how women across the world are contributing to legal reform, helping to shape non-discriminatory policies and to counter current legal and social justifications for gender-based violence. The book takes case studies from Brazil, India, Iran, Lebanon, Nigeria, Palestine, Senegal, and Turkey, using them to demonstrate in each case the varied history of family law and the wide variety of issues impacting women's equality in legislation. Interviews with prominent women's rights activists in three additional countries are also included, giving personal accounts of the successes and failures of past reform efforts. Overall, the book provides a complex global picture of current trends and strategies in the fight for a more egalitarian society. These findings come at a critical moment for change. Across the globe, family law issues are contentious. We are simultaneously witnessing an increased demand for women's equality and the resurgence of fundamentalist forces that impede reform, invoking rules rooted in tradition, culture, and interpretations of religious texts. The outcome of these disputes has enormous ramifications for women's roles in the family and society. This book tackles these complexities head on, and will interest activists, practitioners, students, and scholars working on women's rights and gender-based violence.

Argues that the shared adjudication model regarding the regulation of marriage can potentially balance cultural rights and gender equality.

This innovative Handbook provides an expansive interrogation of the spaces and places of law, exploring how we engage relationally in a material world, within which we are inter-dependent and reliant, and governed by laws in a dynamic process. It

advances novel insights into the numerous intersections of space, place and law in our lives.

Malcolm Feeley, one of the founding giants of the law and society field, is also one of its most exciting, diverse, and contemporary scholars. His works have examined criminal courts, prison reform, the legal profession, legal professionalism, and a variety of other important topics of enduring theoretical interest with a keen eye for the practical implications. In this volume, *The Legal Process and the Promise of Justice*, an eminent group of contemporary law and society scholars offer fresh and original analyzes of his work. They assess the legacy of Feeley's theoretical innovations, put his findings to the test of time, and provide provocative historical and international perspectives for his insights. This collection of original essays not only draws attention to Professor Feeley's seminal writings but also to the theories and ideas of others who, inspired by Feeley, have explored how courts and the legal process really work to provide a promise of justice.

*Family Law* emphasizes the issues and skills most relevant to domestic relations practice. The text employs a novel and dramatic organization with three substantive units that compare the legal treatment of the parent-child relationship vs. adult intimate relationships at stages of formation, regulation, and dissolution. In keeping with the modern reorientation of the field, *Family Law* reflects the transition "From Partners to Parents" beginning with the creation of parent-child relationship rather than marriage. Its geographical breadth delivers more comparative materials than other texts, using examples from a variety of cultures to provoke "why don't we do this?" considerations. Each student-friendly chapter and section begins with a clear summary of current law that orients the reader before examining legal texts in detail. This structure invites theoretical critique only after a solid foundation is laid. Statutes are core to the text which gives proper emphasis to the vital skill of statutory interpretation in today's practice. Up-to-date material provides more recent cases than any other textbook. With an empirical emphasis, *Family Law* draws from the significant literature in sociology, psychology, anthropology and other fields so that legal analysis is grounded in real-life application. Focused questions direct students to the heart of the analysis, often using headings before questions to alert readers to the type of analysis required, for example: statutory interpretation, policy, client counseling, and moral theory. Features: Novel organization three substantive units compares legal treatment of parent-child relationship vs. adult intimate relationships considers stages of formation, regulation, and dissolution Reflects modern reorientation of the field in keeping with transition "From Partners to Parents" starts with creation of parent-child relationship rather than marriage Geographical breadth much more comparative material than current texts examples from other cultures lead to "why don't we do this?" considerations Student-friendly organization each chapter and section begins with clear summary of current law orients students before examining legal texts invites theoretical critique after foundation is laid Statutes at the core proper emphasis on the vital skill of statutory interpretation Up-to-date more recent cases than any other textbook Empirical emphasis draws from sociology, psychology, anthropology, and other fields grounds legal analysis in real world application Focused questions direct students to the heart of the analysis use headings to alert students as to the type of analysis required (e.g., statutory interpretation, policy, client counseling, moral theory)

In recent years, there have been a number of concerns about the recognition of religious laws and the existence of religious courts and tribunals. There has also been the growing literature on legal pluralism which seeks to understand how more than one legal system can and should exist within one social space. However, whilst a number of important theoretical works concerning legal pluralism in the context of cultural rights have been published, little has been published specifically on religion. Religion and Legal Pluralism explores the extent to which religious laws are already recognised by the state and the extent to which religious legal systems, such as Sharia law, should be accommodated.

The Oxford History of Hinduism: Modern Hinduism focuses on developments resulting from movements within the tradition as well as contact between India and the outside world through both colonialism and globalization. Divided into three parts, part one considers the historical background to modern conceptualizations of Hinduism. Moving away from the reforms of the 19th and early 20th century, part two includes five chapters each presenting key developments and changes in religious practice in modern Hinduism. Part three moves to issues of politics, ethics, and law. This section maps and explains the powerful legal and political contexts created by the modern state—first the colonial government and then the Indian Republic—which have shaped Hinduism in new ways. The last two chapters look at Hinduism outside India focusing on Hinduism in Nepal and the modern Hindu diaspora.

This volume provides a comprehensive survey of the contemporary study of Islamic law and a critical analysis of its deficiencies. Written by outstanding senior and emerging scholars in their fields, it offers an innovative historiographical examination of the field of Islamic law and an ideal introduction to key personalities and concepts. While capturing the state of contemporary Islamic legal studies by chronicling how far the field has come, the Handbook also explains why certain debates recur and indicates fundamental gaps in our knowledge. Each chapter presents bold new avenues for research and will help readers appreciate the contested nature of key concepts and topics in Islamic law. This Handbook will be a major reference work for scholars and students of Islam and Islamic law for years to come.

Governing Islam traces the colonial roots of contemporary struggles between Islam and secularism in India, Pakistan, and Bangladesh. The book uncovers the paradoxical workings of colonial laws that promised to separate secular and religious spheres, but instead fostered their vexed entanglement. It shows how religious laws governing families became embroiled with secular laws governing markets, and how calls to protect religious liberties clashed with freedom of the press. By following these interactions, Stephens asks us to reconsider where law is and what it is. Her narrative weaves between state courts, Islamic fatwas on ritual performance, and intimate marital disputes to reveal how deeply law penetrates everyday life. In her hands, law also serves many masters - from British officials to Islamic jurists to aggrieved Muslim wives. The resulting study shows how the neglected field of Muslim law in South Asia is essential to understanding current crises in global secularism.

Multi-religious and multi-ethnic democracies face the challenge of constructing accommodative arrangements that can both facilitate cultural diversity and ensure women's rights within religio-cultural groups. This thesis is an investigation of the Indian state's policy of legal pluralism in recognition of religious family laws in India. The Indian

state has adopted a model of what I have termed "shared adjudication" in which the state shares its adjudicative authority with internally heterogeneous religious groups and civil society in the regulation of marriage among Hindus and Muslims.

This book examines the practice of Alternative Dispute Resolution (ADR) as it stands today in the context of matrimonial disputes and for providing gender justice for women undergoing matrimonial litigation. ADR is a fairly recent but increasingly prevalent phenomenon that has significantly evolved due to the failure of the adversarial process of litigation to provide timely resolution of disputes. The book explores the merit and demerit of traditional litigation process and emergence, socio-legal framework, work environment and success rate of various ADR processes in general and for resolving matrimonial disputes in particular. It comprehensively discusses the role of various institutions and attitudes and perceptions of ADR practitioners. It analyzes the influence of patriarchal cultural assumptions of appropriate feminine behaviour and its effect on ADR practitioners like mediators and counsellors that leads to the marginalization of aggrieved womans issues. With a brief analysis of the experience and challenges faced with the way the ADR process is conducted, the focus is on probing the vulnerability of aggrieved women. The book critiques the practice of ADR as it is today and offers constructive ways forward by providing suggestions, insights, and analysis that could bring about a transformation in the way justice is delivered to women. This in-depth study is an attempt to guide decision making by bringing forth and legitimizing the battered womens voice which often goes unrepresented, in the debate about the efficacy of ADR mechanism in resolving matrimonial disputes. The book is of interest to those working for justice for women, particularly in the context of matrimonial disputes -- legal professionals, mediators, counsellors, judges, academicians, women rights activists, researchers in the field of gender and women studies, social work and law, ADR educators, policymakers and general readers who are inclined and interested in bringing a gender perspective to their area of work.

This book explores the rise of private arbitration in religious and other values-oriented communities, and it argues that secular societies should use secular legal frameworks to facilitate, enforce, and also regulate religious arbitration. It covers the history of religious arbitration; the kinds of faith-based dispute resolution models currently in use; how the law should perceive them; and what the role of religious arbitration in the United States and the western world should be. Part One examines why religious individuals and communities are increasingly turning to private faith-based dispute resolution to arbitrate their litigious disputes. It focuses on why religious communities feel disenfranchised from secular law, and particularly secular family law. Part Two looks at why American law is so comfortable with faith-based arbitration, given its penchant for enabling parties to order their relationships and resolve their disputes using norms and values that are often different from and sometimes opposed to secular standards. Part Three weighs the proper procedural, jurisdictional, and contractual limits of arbitration generally, and of religious arbitration particularly. It identifies and explains the reasonable limitations on religious arbitration. Part Four examines whether secular societies should facilitate effective, legally enforceable religious dispute resolution, and it argues that religious arbitration is not only good for the religious community itself, but that having many different avenues for faith-based arbitration which are properly limited is good for any vibrant pluralistic democracy inhabited by diverse faith groups.

Families and family law have encountered significant challenges in the face of rapid changes in social norms, demographics and political expectations. The Cambridge Companion to Comparative Family Law highlights the key questions and themes that have faced family lawyers across the world. Each chapter is written by internationally renowned academic experts and focuses on which of these themes are most significant to their jurisdictions. In taking this jurisdictional approach, the collection will explore how different countries have tackled these issues. As a result, the collection is aimed at students, practitioners and

academics across a variety of disciplines interested in the key issues faced by family law around the world and how they have been addressed.

Legal Pluralism and Governance in South Asia and the Diasporas contributes to the already heated debate about legal pluralism and the ontology of law by shifting the attention toward the relationship between what is treated as law and its impact on governance at the fora of dispute resolution. This book addresses sensitive issues such as gender rights and alternative dispute resolution in India, Hindu and Muslim personal laws in South Asia and in Europe, cross-border white violence, the change to Islamic legal traditions under Western domination, women's inheritance in Pakistan and in the disputed territory of Gilgit Baltistan, indigenous rights and resistance at the India-Bangladesh border, and customary laws of nomadic groups in India. The authors deploy a variety of views that point at the pros and cons of legal pluralism and also integrates its opponents. They show how constructions of identity, religion, and power have historically informed the conceptualisation of secularism which may be an ideal, sometimes able to provide for perceptions of accountable governance, but also generating dividing worldviews. This book was published as a special issue of the Journal of Legal Pluralism and Official Law.

This book argues that the shared adjudication model in which the state splits its adjudicative authority with religious groups and other societal sources in the regulation of marriage can potentially balance cultural rights and gender equality. In this model the civic and religious sources of legal authority construct, transmit and communicate heterogeneous notions of the conjugal family, gender relations and religious membership within the interstices of state and society. In so doing, they fracture the homogenized religious identities grounded in hierarchical gender relations within the conjugal family. The shared adjudication model facilitates diversity as it allows the construction of hybrid religious identities, creates fissures in ossified group boundaries and provides institutional spaces for ongoing intersocietal dialogue. This pluralized legal sphere, governed by ideologically diverse legal actors, can thus increase gender equality and individual and collective legal mobilization by women effects institutional change.

Since the early 1990s, politicians, policymakers, the media and academics have increasingly focused on religion, noting the significant increase in the number of cases involving religion. As a result, law and religion has become a specific area of study. The work of Professor Norman Doe at Cardiff University has served as a catalyst for this change, especially through the creation of the LLM in Canon Law in 1991 (the first degree of its type since the time of the Reformation) and the Centre for Law and Religion in 1998 (the first of its kind in the UK). Published to mark the twenty-fifth anniversary of the LLM in Canon Law and to pay tribute to Professor Doe's achievements so far, this volume reflects upon the interdisciplinary development of law and religion.

Leading scholars look beyond the rhetoric of diversity to reveal the ongoing obstacles to professional success for traditionally disadvantaged groups.

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