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An Introduction to Islamic Law by Wael B. Hallaq

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OF LAW**

**SMALL SCHOOL.
BIG VALUE.**

1965. A known Marxist, Krebs prepared a multiple-choice midterm examination for his introductory and advanced courses that included three dubious questions. Each question sought “to extract from students dogmatic answers in matters about which the profession of sociology does not recognize dogmatic knowledge” (p.85) and left students with little choice but to give an answer that supported Krebs’ own ideology. The authors see Krebs’ actions as an attempt to indoctrinate his students, one of only a few recounted instances in which they condemn the actions of a professor.

¶26 More commonly, *For the Common Good* supports the professors whose accounts it relates, finding their actions or expression to be justified under principles of academic freedom. Grounds cited for this support range from stimulating student thought (burning a flag as a part of a lesson on symbolism) to achieving an increased role in the university (seeking a raise and a position in college governance) to participating in society as a U.S. citizen (attending peace demonstrations). Whether this tendency to favor a broad interpretation of academic freedom flows from the authors or stems from Committee A itself is not always clear. However, the opening paragraph of the book’s conclusion at least suggests that the authors recognize the need for a balanced perspective: “Academic freedom is not the freedom to speak or teach just as one wishes. It is the freedom to pursue the scholarly profession, inside and outside the classroom, according to the norms and standards of that profession” (p.149).

¶27 In addition to its primary text, *For the Common Good* provides detailed attribution, comprehensive indexing, and appendixes containing excerpts from the 1915 *Declarations* and 1940 *Statement*. Ultimately, however, it is the book’s succinct but thorough examination of academic freedom that makes it a must-have for every academic law library. The accounts of the stories behind the academic freedom cases, accounts that make the book so readable, are an added bonus.

Hallaq, Wael B. *An Introduction to Islamic Law*. New York: Cambridge University Press, 2009. 200p. \$45.

Reviewed by Jennifer L. Laws

¶28 Most Westerners derive what little they know of Islamic law, or *Shari’a*, and of current legal practice in Muslim countries from network news programs, glossy magazine stories, and similar popular sources. Such sources rarely provide meaningful context or significant analysis. Consequently, the images of *Shari’a* conveyed by the mainstream media and held in the popular imagination are often shocking and brutal: punishments such as amputation or stoning, discrimination against women, or honor killings. Neither the long history of *Shari’a* nor the dramatic metamorphosis it has undergone since the nineteenth century is widely understood. Professor Wael Hallaq’s most recent work, *An Introduction to Islamic Law*, aims to overcome these deficiencies by providing a concise overview for nonspecialists, both of *Shari’a*’s pre-modern history and of its transformation and use within the modern Islamic world.

¶29 Wael Hallaq is the Avalon Foundation Professor in the Humanities at Columbia University and was previously the James McGill Professor of Islamic Law

at McGill University. He has published extensively on Islamic law and legal theory since the 1980s. His works represent more than twenty of the entries in Makdisi and Makdisi's *Islamic Law Bibliography: Revised and Updated List of Secondary Sources*.¹⁵ *An Introduction to Islamic Law* is distilled from Professor Hallaq's larger work, also published in 2009 by Cambridge University Press, entitled *Shari'a: Theory, Practice, Transformations*.¹⁶ In contrast to its more detailed counterpart, *An Introduction to Islamic Law*, "is not for specialists but rather caters [to] those who seek a simplified account of Islam and its law" (p.3).

¶30 Readers of the earliest chapters of *An Introduction to Islamic Law* will quickly become aware that the book is merely an abridgement of a larger and more complete work. Despite its focus on a less-advanced audience, the text's presentation of early Islamic law sources, concepts, vocabulary, and legal roles fails, at times, to provide historical reference points for those readers who are ignorant of Muslim history. The book also lacks historical and contemporary maps of the Muslim world, both of which would have proven useful for readers truly new to the subject. The author does, however, include a chronology and a glossary of key terms that help to place the new concepts and structures into some historical and geographical context. Technical terms are capitalized when they first appear in the text, alerting readers to check the glossary. A list of suggested readings, prioritized and organized by topic or chapter, and a comprehensive index also appear on the book's final pages to assist readers.

¶31 The principal strengths of *An Introduction to Islamic Law* are two. First, the author provides a strong and coherent overview of both pre-modern (approximately the seventh through eighteenth centuries) and modern (nineteenth century to present) manifestations of Islamic law. Second, the author offers insightful analysis on the collision between the quintessentially modern institution of the nation-state and the much older tradition of *Shari'a*.

¶32 After detailing the changes set in motion by European colonial projects in India, Indonesia, the Ottoman Empire, Egypt, Iran, and Algeria in chapter seven, Hallaq hits his stride in chapter eight, "The Law in the Age of Nation-States." Again and again the author skillfully forces the reader to question stereotypes about the role *Shari'a* has played in the daily lives of Muslims since colonization. For example, in a section labeled "Family Law and A New Patriarchy," the author directly addresses gender roles under the law—not only as dictated by *Shari'a* but also as such roles evolved within the legal structures of the nation-state that were both imposed on and embraced by Muslim countries during and after colonial rule. As this European model took hold, the new Muslim nation-states abandoned the multiple and varied roles typically enjoyed by women in pre-modern Muslim society. Instead, in line with European thinking of the early to mid-twentieth century, women came to be assigned the narrowly limited "role of raising the national citizen of the future" (p.125). As Professor Hallaq claims:

15. John Makdisi & Marianne Makdisi, *Islamic Law Bibliography: Revised and Updated List of Secondary Sources*, 87 LAW. LIBR. J. 69, 89–90 (1995).

16. WAEL B. HALLAQ, *SHARI'A: THEORY, PRACTICE, TRANSFORMATIONS* (2009).

An increasing sense of individualism, combined with a male-oriented national state, a new male-oriented economy and bureaucracy, and a wholesale collapse of the domestic economies that had been the exclusive domain of women, all combined to produce legal codes and legal cultures that, under the banner of modernity, tended to subordinate women rather than liberate them (p.125).

Thus, one of the defining stereotypes of *Shari'a*—that it oppresses women—is examined anew and found to evince a far more complex picture than evening news commentators ever portray. Through Hallaq's analysis, a fuller picture of the contemporary workings of both *Shari'a* and secular law in Muslim countries emerges.

¶33 Although *An Introduction to Islamic Law* could prove challenging reading for those ignorant of the basic outlines of Muslim history, this work would be an appropriate addition to any collection catering to patrons with an interest in international law or religious law. Academic libraries and larger public, law firm, and court libraries may wish to consider purchasing it. Because *An Introduction to Islamic Law* lacks footnotes to Arabic sources and only infrequently uses precise technical legal terminology, Hallaq's *Shari'a: Theory, Practice, Transformations* remains essential for comprehensive academic collections. Any library that owns Joseph Schacht's *An Introduction to Islamic Law*¹⁷ would be well served by the addition of Professor Hallaq's 2009 titles.

Lindquist, Stefanie A., and Frank B. Cross. *Measuring Judicial Activism*. New York: Oxford University Press, 2009. 176p. \$70.

Reviewed by Shaun Esposito

¶34 While I was examining the list of new legal titles available for review in the present column, this work immediately caught my eye. Justice Sonia Sotomayor's confirmation hearings had only recently concluded, and the phrase *judicial activism* remained commonplace and familiar. Though I had heard this term and such related phrases as *activist judges* bandied about daily in both news reports and casual conversations, I had neither seen nor heard a specific, thoughtful definition of *activism* in the jurisprudential context. The idea that such activism could actually be measured really intrigued me. I anticipated a careful, analytical work loaded with charts, graphs, and statistics that would place this ill-defined phrase in perspective; I was not disappointed.

¶35 The authors of *Measuring Judicial Activism*, both of whom are now professors at the University of Texas School of Law, obviously possess the legal analytical ability needed to carefully review court decisions. Stefanie Lindquist also has a Ph.D. and extensive background in political science, which allows the authors to supplement their legal analysis with valuable quantitative and statistical measures. The result is a fascinating work that seeks to measure the role of judicial activism in Supreme Court decisions from the early Warren Court through the later Rehnquist Court.

17. JOSEPH SCHACHT, AN INTRODUCTION TO ISLAMIC LAW (1964).