

Tarek Mitri, (ed) — Religion, Law and Society: A Christian Muslim discussion

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Reviewer: Rev Chris le Roux

*'This book is the fruit of two Christian-Muslim colloquia convened by the Office in Interreligious Relations of the World Council of Churches'* a quote from the editor in the Introduction. It stems from the desire to concentrate on the most timely and controversial issues outlined in the 'Ecumenical Considerations' on issues in Christian-Muslim relations which were received by the World Council of Churches Central Committee in 1992. Christians and Muslims were invited to re-examine the complex relation of their religions to society and state and this publication is the result of the discussion. This is stated in the Introduction, but in practice the book concentrates upon Islamic law (*taṭbiq al-Shari'ah*) concerning the 'calls for the implementation of Islamic law' or 'attempts to impose it'. Calls that are generally met among Christians with fear, indignation and protest.

Questions that are discussed are, for instance, the opinion that legal systems elaborated in historical circumstances different from those of our present world constitute a form of retrogression, and that the enforcement of *Shari'ah* could lead to the marginalization and even subordination of those who live in predominantly Muslim countries; also the question whether a religiously based legal system can be an alternative to positive law.

Perceptions like these (and others from the Muslim and Christian sides) do not favour dialogue, although the editor is of the opinion that dialogue is possible, even desirable, despite these obstacles and limitations. He sees dialogue as an alternative to war. Other obstacles are the fact that *Shari'ah* does not propose a homogenous, well-defined and delimited body of legal texts and that Islamists will not find an agreed upon and coherent system they can immediately apply. Who would participate in the dialogue? Would it be with those Islamists who believe in analogy (*qiyās*) as the accepted method of understanding *Shari'ah*, or with those who believe in distinguishing between the normative and contextual and who insist on returning to the *Qur'ān* itself, who differentiate between *Shari'ah* and *fiqh* (jurisprudence). Therefore the statement of the editor on page ix of the Introduction, is of the utmost importance: 'A relevant Christian-Muslim dialogue on *Shari'ah* cannot progress, or even occur, except in relation to the exchanges and debates among Muslims'.

Other 'thorny issues' mentioned by the editor are the question of what is included in *Shari'ah*, the relationship between *Shari'ah* and *fiqh* and the rights of non-Muslims in an Islamic state. This is followed by a few directives for significant dialogue, some of which are questionable in the light of the obstacles in Islam itself, for instance: 'Christians cannot engage in a constructive dialogue with Muslims on *Shari'ah* without rethinking their rather negative view of law, which they often oppose to "grace" or "love"'. Of course, to leave room for debates among Muslims would imply room for debates among Christians as well, seeing that this Christian 'view of law' is itself a debatable statement.

The book contains several papers by different writers on related subjects. Part one, *Typologies of Religion and State*, by Sheila McDonough, is a short paper presenting a typology of religion and state relationships in the Christian and Islamic traditions. McDonough stresses that Christians and Muslims have very little knowledge about each other's history and that mutual knowledge can at least eliminate much of the current unjust stereotyping. A question that comes to mind is whether it is relevant for modernday dialogue to compare the emperor Constantine and the Prophet Muhammed?

Part II consists of six different papers. In the first paper Walid Saif writes about *Shari'ah and Modernity*. He accepts the fact that there is conflict between *Shari'ah* and modernity, but argues that the conflict is neither necessary nor inherent. After a discussion of the meanings and implications of the two concepts, he comes to the conclusion that *Shari'ah* does not hinder, but rather encourages modernity in its broader sense. The second paper by Tayyib Zayn Al-Abdin looks at the implications of *Shari'ah*, *fiqh* and *Qānūn* in an Islamic State.

J S Nielsen states that *Shari'ah*, *fiqh* and *qānūn* form a useful starting point in considering Muslim responses to the modern world, in terms of both aiding an analysis of the substrata often hidden in the emotional use of the term *Shari'ah* and deconstructing some of the historical myths that surround it. His paper is followed by *Tashrī (Process of law-making) in Islam* by Asghar Ali Engineer and *Notes on Shari'ah, fiqh and Ijtihād* by Mokhtar Ihsan Aziz. In the last paper of part II Khalid Ziadeh, professor at the Libanese University, Tripoli, explores the fact that the debate on religion and state in the Muslim world has taken a new turn in the last two decades of this century. Modern nationalism and the political, social and cultural effects of secularization in Muslim societies raise a new set of issues. The second insight that comes out of this paper is that comparing Islam and Christianity is not as simple as some secularists, including Christians, suggest.

In Part III the theme continues. B F Breiner writes about *Shari'ah and Religious Pluralism* and G S Atabani about *Islamic Shari'ah and the Status of the non-Muslim*. G Speelman looks at the same theme, from a different angle. In his paper, *Muslim Minorities and Shari'ah in Europe*, he also comes to the conclusion that a debate is needed on the precise nature of *Shari'ah*. He uses the following quotes to point to some of the issues: 'There seems to be a difference between the Western Christian concept of law, and *Shari'ah*. English common law is regarded as a purely human creation. Protestant Christians regard law as a reflection of the human failure to live directly under God. But does the fact that *Shari'ah* in Islam is of divine origin mean that it must be static'?

Part IV contains five papers on the relationship between religion and secularism, starting with Muhammed Ben-Yunusa who argues from an Islamic point of view, although he makes some remarks on Christianity as well, for example: 'Religiously, the concept of secularism may also be seen as the Christian doctrine of the separation of the state from religion, pure and simple. The concept is said to have emanated from the Biblical expression: "Render unto Caesar the things which are Caesar's and unto God the things which are God's"'. To state that the concept of secularism is the same as the doctrine of the separation of the state from religion, is an oversimplification of the whole concept.

This paper is followed by *Religion and Secularization, Introductory remarks from a Western-Christian Perspective*, by Heinz Klautke. He starts by discussing the meaning of the term secularization, from different perspectives. B F Breiner writes about the same theme from the perspective that

secularism and religion are 'alternative worldviews'. Humanity faces the crisis of the interconnectedness and interdependence of reality, against Western secularism's understanding of humanity as individualistic. The problem of the modern world is how to integrate the different systems. The last two papers in this section stem from the pen of J S Nielsen, *State, Religion and Laïcité: The Western European Experience*, and *The Role of Religious Institutions and 'ulamâ' in a Contemporary Muslim Society* by T Z Al-Abdin.

In Part V we find a new theme, Human Rights. Walid Saif speculates on the relation between human rights and Islamic revivalism, based on the association created between the human rights issue and the postulated danger of Islamic fundamentalism. In the last chapter Thomas Michel discusses the United Nations Human Rights Conference in Vienna in June 1993. The fundamental question is: Are human rights universal? Do they derive from the very nature and dignity of the human being, or should they be viewed as culturally relative?

This book aims to stimulate dialogue between Christian and Muslim, concentrating on the question of Islamic *Sahri'ah* and related issues. Reading this book will benefit anybody interested in dialogue between non-Muslim and Muslim, or in Islam as a whole. Other readers who may find useful information are those interested in law systems or the relationship between religion and secularization.

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