

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

This book examines the various minorities living in the island of Cyprus from the early modern (late Venetian and early Ottoman) period down to the present day. It charts their history, with special emphasis on their relations with the powers ruling Cyprus and with the two dominant Christian-Greek and Muslim-Turkish communities. The theme running through the book is that despite being significant members of Cyprus' society, the three historical minorities (Maronites, Armenians and Latins) were only included in society to a certain extent by the two major communities. This was formalised in the post-independence (1960) period when they were compelled to become members of either dominant community and thus they suffered 'internal exclusion' by being regarded as religious sub-groups of one of the two dominant communities rather than national minorities in their own right. Within this general context, the social, legal and political roles, customs, culture and language of the various minorities are examined as they evolved through time and in response to internal and external developments affecting Cyprus in the political, economic and global spheres. They are discussed not as static entities, but as evolving groups that have adapted with greater or lesser degrees of success to the radical and at times painful changes Cyprus has undergone, especially over the last 150 years, in all walks of life. Finally, the question of what the future holds for the minorities of the island in the light of Cyprus' EU membership and the prospect of reunification are also analysed. This book is a product of the conference "Minorities of Cyprus: Past, Present and Future", which was held on 24 and 25 November 2007 at the European University Cyprus.

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

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.

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.

Law can no longer be viewed through a purely national lens. Transnational legal ordering affects the boundary of the state and the market, the allocation of power among national institutions, the role of professions and their expertise, and associational patterns that provide new normative frames. This book breaks new ground for understanding the impacts of transnational legal ordering within nation-states in today's globalized world. The book addresses the different dimensions of state change at stake and the factors that determine these impacts. It brings together leading scholars from sociology and law who study the effects of transnational legal ordering within different countries. Their case studies illustrate how transnational legal ordering interacts with national law and institutions in different regulatory areas, and cover anti-money laundering, bankruptcy, competition, education, intellectual property, health, and municipal water law and policy in different countries. The book explains the extent and limits of transnational legal ordering in today's world.

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

Lack of diversity within the judiciary has been identified as a legitimacy concern in domestic settings, and the last few years have seen increasing attention to this question at the international level. This book analyses the implications of identity and diversity across numerous international adjudicatory bodies.

The US 'war on terror' has repeatedly violated fundamental rule of law values. When executive and legislature commit such egregious wrongs, courts represent the ultimate defense. Law's Trials: The Performance of Legal Institutions in the US 'War on Terror' offers the first comprehensive account of judicial performance during the 16 years of the Bush and Obama administrations. Abel examines criminal prosecutions of alleged terrorists, courts martial of military personnel accused of law of war violations, military commission trials of 'high value detainees', habeas corpus petitions by Guantanamo detainees, civil damage actions by victims of both the 'war on terror' and terrorism, and civil liberties violations by government officials and Islamophobic campaigners. Law's Trials identifies successful defenses of the rule of law through qualitative and quantitative analyses, comparing the behavior of judges within and between each category of cases and locating those actions in a comparative history of efforts to redress fundamental

injustices.

*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.

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*.

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

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

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.

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

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.

*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.

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.

Using post-colonial Hong Kong as a case study, this book examines why and how legal mobilization arises in authoritarian regimes.

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 women's 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 women's 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 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.

This is a valuable study of how rights consciousness and human rights consciousness fails to emerge, even in countries that strongly advocate human rights in their external policies, such as the Netherlands. It focuses on this important and widespread paradox about the difficulties of bringing human rights home. A valuable contribution to the global literature on human rights and socio-legal studies.

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.

*Constituting Religion* examines how constitutional provisions for both Islam and liberal rights catalyze conflicts over religion in Malaysia and feed a 'rights-versus-rites' binary.

This title is also available as Open Access.

American family law makes two key assumptions: first, that the civil state possesses sole authority over marriage and divorce; and second, that the civil law may contain only one regulatory regime for such matters. These assumptions run counter to the multicultural and religiously plural nature of our society. This book elaborates how those assumptions are descriptively incorrect, and it begins an important

conversation about whether more pluralism in family law is normatively desirable. For example, may couples rely upon religious tribunals (Jewish, Muslim, or otherwise) to decide family law disputes? May couples opt into stricter divorce rules, either through premarital contracts or 'covenant marriages'? How should the state respond? Intentionally interdisciplinary and international in scope, this volume contains contributions from fourteen leading scholars. The authors address the provocative question of whether the state must consider sharing its jurisdictional authority with other groups in family law.

Stephens argues that encounters between Islam and British colonial rule in South Asia were fundamental to the evolution of modern secularism.

A major contribution toward the ongoing debates on the nature and history of Hinduism in India Is Hinduism coherent, or should it be viewed as a conglomeration of many distinctive traditions? What were (or are) its most important and central teachings? When did the idea of "Hinduism" first arise and what have been the consequences? What were the effects of British rule on the religion and what are the effects of continuing modernization? This book responds to all such debates surrounding Hinduism in the colonial and contemporary periods. It emphasizes on Hinduism as it arose and developed in the subcontinent itself—an approach which facilitates greater attention to detail and an understanding of the specific context in which new movements and changes have taken place.

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

Groundbreaking theoretical and legal approaches to resolving conflicts between gender equality and cultural practices

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.

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.

Offers a comprehensive overview of the key issues facing family law globally, and explores how different countries have tackled them.

Modern statesmen and political theorists have long struggled to design institutions that will simultaneously respect individual freedom of religion, nurture religion's capacity to be a force for civic good and human rights, and tame religion's illiberal tendencies. Moving past the usual focus on personal free expression of religion, this illuminating book - written by renowned scholars of law and religion from the United States, England, and Israel - considers how the institutional design of both religions and political regimes influences the relationship between religious practice and activity and human rights. The authors examine how the organization of religious communities affects human rights, and investigate the scope of a just state's authority with respect to organized religion in the name of human rights. They explore the institutional challenges posed by, and possible responses to, the fraught relationship between religion and rights in the world today.

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.

This book focuses on Islamic family law as interpreted and applied by judges in Europe, Australia and North America. It uses court transcriptions and observations to discuss how the most contentious marriage-related issues - consent and age of spouses, dower, polygamy, and divorce - are adjudicated. The solutions proposed by different legal systems are reviewed, and some broader questions are addressed: how Islamic principles are harmonized with norms based on gender equality, how parties bargain strategically in and out of court, and how Muslim diasporas align their Islamic worldview with a Western normative narrative.

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

The global recognition of the unjust discrimination and violence that women, particularly women in developing countries, have been subjected has led to the adoption of numerous international legal instruments that underscored the importance of the human rights of women. This country report identifies Ethiopian laws that do not conform to internationally accepted standards. It also examines legal and regulatory reform as a critical tool for promoting gender-sensitive human development in Africa, highlights problems related to law enforcement mechanisms, and proposes alternative solutions.

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