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## Law and Society Review Special Issue Introduction: Islamic Law, Society, and the State

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Islamic law occupies a relatively minor place in the legal systems of most Muslim-majority countries, with jurisdiction often limited to matters of family law. In a smaller number of countries, its reach includes criminal and constitutional matters as well. Yet whatever its formal scope, state claims to Islamic law frequently generate controversy and contention. There is a certain irony here: most states that seek to regulate Islamic law do so with the expectation that its role can be carefully stage managed and choreographed. Instead, state leaders more typically find themselves contending with new demands and unexpected forms of claims-making; whether from women's groups advocating for gender equality grounded in Islam, from conservative groups calling for the adoption of an Islamic criminal code, or from liberals and secularists challenging the state's claim to Islamic law altogether.<sup>1</sup> When it comes to Islamic law, everyone has an opinion.

Many readers will understand these struggles as a politics of tradition versus modernity. But the collection of essays that make up this special issue of *Law & Society Review* present a different perspective. They demonstrate that contention around Islamic law is, in fact, a quintessentially modern phenomenon. That is to say, the present-day politics of Islamic law are both unique to the contemporary era and contingent on modern state institutions for their expression and distinctive salience. This special issue focuses on what state regulation of Islamic law gives rise to—the new forms of politics it creates, the governing strategies it enables, the modes of resistance it makes possible, and the types of legal or religious consciousness it generates.

More generally, this special issue is intended to connect socio-legal scholars with new research at the intersection of Islamic law and society. This is a bridge that is sorely missing at present. Terms such as “Islamic law” “*shari'a*,” and “fatwa” are widely cir-

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<sup>1</sup> These debates are often intertwined with a variety of other issues: ethnic politics, patriarchy, critiques of government abuse of power, and so forth.

culated given contemporary political realities, round-the-clock news coverage, and growing Muslim communities in Europe and North America. Poll after poll suggests that these terms, and the Islamic legal tradition more broadly, carry negative associations for many in the “West” (Green 2015). Even within the scholarly community, there is still too little understanding of, or interest in, the Islamic legal tradition. Thus, few are aware of the extent to which the English common law borrowed from the Islamic legal tradition (Makdisi 1998), the impact of Europe’s encounter with Islamic law on the development of international law (Pitts 2018), or the prominent role of Islamic law in global finance and commerce, both historically (Bishara 2017) and in the present (El-Gamal 2006). Indeed, with few exceptions (e.g. Quraishi 2006), there has been little comparative work across these legal traditions. Yet Islamic law, nevertheless, remains a persistent and vital feature of the global legal landscape.

Each essay in this special issue draws on a context-rich case study to shed light on a different aspect of the relationship between Islamic law and the state. Together, they explore how state institutions refract the Islamic legal tradition, altering it in ways both subtle and profound. This framing essay opens with a brief introduction to the Islamic legal tradition, as well as to some of the major questions that animate the scholarship on Islamic law and society. It then presents case studies from Egypt, India, Malaysia, and Sudan to offer theoretically informed and empirically grounded research into the myriad ways in which Islamic law and state institutions intersect. Together, the contributions examine how binaries of public versus private, religious versus secular, and, yes, “tradition” versus “modernity” are legally, socially, and politically constructed. The special issue will be of general interest to law and society scholars and of particular interest to those who specialize in law and religion, legal pluralism, legal consciousness, family law, comparative judicial politics, and rights contestation.

## **The Islamic Legal Tradition**

The Islamic legal tradition is often understood as constituting a quintessential jurists’ law, and it is not difficult to understand why. Although there is consensus on fundamental theological principles, the Islamic legal tradition is characterized first and foremost by a deep pluralism that extends to the level of the individual jurist. At the bedrock are the textual sources of authority in Islam: The Qur’an, which Muslims believe to be the word of God, as revealed to the Prophet Muhammad in the seventh century,

and the Sunnah, the normative example of the Prophet. However, there is no centralized institution to impose a common interpretation, much less a uniform legal doctrine.

In the first several centuries of the faith, schools of Islamic jurisprudence, called *madhhabs*, formed around leading religious scholars. Each *madhhab* developed its own distinct methods for engaging the Qur'an and Sunnah to offer guidance to the Muslim community. Techniques such as analogical reasoning (*qiyas*), consensus (*ijma*), public interest (*maslaha*), and a variety of other legal concepts and tools were developed to constitute the interpretive methods of Islamic legal theory (*usul al-fiqh*), from which Islamic jurisprudence (*fiqh*) is derived. The legal science that emerged was one of tremendous complexity, both within each *madhhab* and among them. Dozens of distinct schools of jurisprudence emerged in the early centuries of the faith. However, most died out or merged over time, eventually leaving four primary schools of Sunni jurisprudence: the Hanafi, Hanbali, Maliki, and Shafi'i. Another school of jurisprudence, the *Ja'fari*, is unique to Shi'a Islam.<sup>2</sup> These schools of jurisprudence constituted just one facet of a complex and multilayered religious tradition. Muslims endeavored to understand the *shari'a*—broadly understood as God's Way—through a variety of undertakings, the Islamic legal tradition being only one (Ahmed 2016). Nonetheless, so central is the Islamic legal tradition to Islam, it is often conflated with the *shari'a* to such an extent that the terms are frequently used interchangeably.

The agent of change within each of these schools was the individual jurist, who operated within the methodological framework of his or her *madhhab* to perform *ijtihad*, the disciplined effort to discern God's law. The instrument of incremental change was the *fatwa*, which was simply a nonbinding legal opinion of a religious scholar.<sup>3</sup> Because *fatwas* are typically offered in response to questions posed by individuals in specific social situations, they were responsive to the local contexts of diverse Muslim communities.<sup>4</sup> In this sense, the evolution of Islamic jurisprudence was a bottom-up, not a top-down process (Masud et al. 1996:4). As a result, *shari'a* is neither monolithic (i.e. it is not a "code") nor is it necessarily "law" in the contemporary sense of state law. Just as Jewish law developed over the course of centuries, independent

<sup>2</sup> For the sake of simplicity, we focus in this Introduction solely on Sunni Islam, the members of which comprise approximately 85% of the worldwide Muslim population.

<sup>3</sup> The *fatwa* is often incorrectly translated as a religious "edict," but *fatwas* are merely nonbinding legal opinions that do not, by themselves, carry the force of law.

<sup>4</sup> Less commonly, muftis could pose hypothetical questions, followed by a legal opinion on the matter. For more on the *fatwa* in Islamic law and society, including dozens of historical and contemporary examples, see Masud et al. (1996).

of centralized political authority, the Islamic legal tradition flourished despite—some say *because of*—the relatively weak institutional capacity of premodern governance (Hallaq 2009; Jackson 1996). To put this in Robert Cover's (1983) terms, the Islamic legal tradition is marked by a robust *jurisgenerative* capacity, which, in the early centuries of the faith, had not yet encountered the *jurispathic* force of the modern state.

Differences among jurists inevitably produced vigorous doctrinal debates. As if to guard against the centripetal force of their disagreements, jurists valorized diversity of opinion (*ikhtilaf*) as a generative force in the search for God's truth. The proverb, "In juristic disagreement there lies a divine blessing" underlines this aspiration (Hallaq 2001:241). To be sure, reality frequently diverged from this ideal. Historians will point to examples throughout history where jurists were harshly repressed with the complicity of their fellow legal scholars. Nonetheless, *ikhtilaf* was idealized as a core normative ethos.

Diversity of opinion was also sustained through a conceptual distinction between *shari'a* (God's way) and *fiqh* (understanding).<sup>5</sup> Although jurists considered the *shari'a* immutable, they acknowledged the diverse body of *fiqh* opinions as the product of human engagement with the textual sources of authority in Islam. In this dichotomy, God is infallible, but human effort to know God's Will with any degree of certainty is imperfect and fallible. The norm was so valorized in the writings of jurists that they frequently concluded their legal opinions with the statement "*wa Allahu a'lam*" (and God knows best). The phrase was meant to acknowledge that no matter how sure one is of her or his analysis and argumentation, only God ultimately knows that conclusions are correct. The distinction between God's perfection and human fallibility asked of jurists to acknowledge that competing legal opinions from other scholars, or from other schools of jurisprudence, may also be correct. As Hallaq (2009:27) relates, "for any eventuality or case, and for every particular set of facts, there are anywhere between two and a dozen opinions, if not more, each held by a different jurist... there is no single legal stipulation that has monopoly or exclusivity."

None of this should be understood as suggesting that the Islamic legal tradition did not acknowledge a role for expressions of political power. Sovereigns were responsible for appointing *qadis* (judges) to their posts and enforcing their decisions. Furthermore, legal theory drew a distinction between *fiqh* (jurisprudence) and *siyasa* (political governance). Although *fiqh* is the diverse body

<sup>5</sup> Premodern jurists did not use these specific terms—they came about in the contemporary era—but the writings of premodern jurists clearly demonstrate recognition of this *conceptual* distinction.

of legal opinions produced by scholars who operated primarily outside of the state, *siyasa* constitutes the rules and decrees related to the realm of policy and it is backed by coercive political authority. The latter includes issues such as taxation, the inspection of markets, and many other areas relevant to the maintenance of public order. In some instances, political authorities intervened in areas that would now be regarded as belonging to the “private sphere,” such as domestic disputes and familial conflict. However, these powers were not always applied evenly and some sovereigns wielded them with greater enthusiasm than others. The Ottoman sultans, for example, went so far as to compile their legislative decrees into legal codes (*qanun*). However, Islamic legal theory was unambiguous in its position that whatever powers the sovereign claimed, they were to be derived from and ultimately had to be used in accordance with *shari'a*. The *fiqh/siyasa* distinction is probably best understood as a longstanding *doctrinal* position more than an accurate description of law in action. The distinction is likely an artifact of how jurists wished to see themselves and their work (as independent from the machinations of power) rather than an accurate representation of realities on the ground. The *fiqh/siyasa* distinction is, in other words, part of an “idealized cosmology” (Chaudhry 2013:11) developed by jurists.

This idealized cosmology became increasingly untenable as it began to run up against the rapid expansion of state power and the introduction of new technologies of governance. This is the era in which specific interpretations of *shari'a* were printed, bound, and identified as “authoritative.” In the Ottoman Empire, legal codification and a variety of administrative reforms were introduced to meet the threat of rising European powers and incipient challenges from within the Empire.<sup>6</sup> The Ottoman *Mecelle* of 1877 is the most famous example of an effort to codify *shari'a*. The *Mecelle* was derived from Hanafi jurisprudence and marks an important point in which Islamic law was presented in the form of a civil code.

In other regions, such as South and Southeast Asia, codification and state building were intimately tied to colonial rule (Hallaq 2009; Hussin 2016). Codification and administrative innovations enabled colonial powers—typically in collaboration with native partners—to regulate societies in a far more systematic and disciplined manner. For example, Anglo-Muhammadan law, which the British imposed on Indian Muslims in the late eighteenth century, was based initially on a single legal manual, the *Hidaya*. There was nothing especially

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<sup>6</sup> To be sure, a growing body of scholarship suggests that proto-state institutions had already shaped the development and application of *shari'a* well before the arrival of colonial powers (Baldwin 2017; Burak 2015; Ibrahim 2015; Stilt 2011).

authoritative about the *Hidaya* to warrant its status as the basis of *shari'a* in early colonial India, but from the British point of view, it had one overwhelming virtue: it was brief (Hallaq 2009:375). Colonial governments used such codes to homogenize the law, layering over society a standardized version of *shari'a* that ignored the needs or traditions of specific communities. In doing so, they reverse-engineered the bottom-up relationship that had characterized *shari'a* in the early centuries to a top-down enterprise of state legibility. *Qadis* were drawn into the state bureaucracy where they could be trained, monitored, and disciplined. Most important, the colonial state displaced the sovereignty of God in the Islamic legal cosmology. Instead, legislative power was derived from the will of the state, for which legal personnel were simply agents. Ultimately, the goal was to render *shari'a* tractable, economically useful, and legible to colonial administrators.

It is at this point that the term "Islamic law," as a category distinct from *shari'a*, becomes meaningful in its own right. Colonial powers, eager to make the Islamic legal tradition commensurate to the civil and common law traditions with which they were familiar, stripped from it the ethical and metaphysical concerns that underlie so much of the *fiqh*. In doing so, they reduced the Islamic legal tradition to a set of rules, punishments, and procedures that bear only a partial resemblance to *shari'a*. Although this moment does not mark the end of *shari'a* as a search for God's Way, it does inaugurate a period in which *shari'a* is only one normative ordering among many. Henceforth, *shari'a* would increasingly have to compete with alternate conceptions of the public good, including those established by and articulated through the modern state. Islamic law is one such alternative. While it shares many of the same source materials and language as *shari'a*, its role and social effects are vastly different.

This trend continued into the postcolonial period as well. In most Muslim-majority countries, the first generation of leaders limited Islamic law to family and personal matters, freeing them to pursue secular nationalist reforms elsewhere in the law. For instance, Gamal Abdel Nasser of Egypt abolished the *shari'a* courts in 1955, folding them into the state civil courts. He also continued a long process of seizing hundreds of thousands of acres of *waqf* (religious endowment) lands, which had provided the financial underpinnings for independent Islamic legal guilds. Finally, Nasser nationalized al-Azhar, one of the most important centers of Islamic study, purging much of its leadership, and reorganizing it to advance the regime's political objectives (Moustafa 2000). Most regimes worked to subordinate religious institutions in this manner. They also began to rely on religious symbolism to sideline rivals or bolster their legitimacy when their mandates began to

falter. To keep with the Egyptian example, Nasser's successor, Anwar Sadat, branded himself the "Believer President" to counter leftists and he formulated Article 2 of the Egyptian Constitution to declare that "Islam is the religion of the state...and the principles of the Islamic *shari'a* are the chief source of legislation." Beginning in the 1970s, these sorts of moves were increasingly met with calls to reinvigorate *shari'a* from below as well. And while demands to "restore" *shari'a* were voiced with diverse understandings in mind, for most Muslims, these calls were motivated by a sincere desire to return to an "idealized *shari'a*", free from arbitrary governance and political corruption (Eltantawi 2017).

Yet even as substantive and symbolic efforts to "restore" *shari'a* were advanced, the institutional legacies of the colonial era were retained. Constitutional texts, modern judicial structures, and codified law were some of the most recognizable departures from the precolonial Islamic legal tradition. In addition, less obvious concepts such as compartmentalized jurisdiction, formalized court procedures, and myriad epistemological and ontological assumptions about the functions, purpose, and fundamental nature of law marked a massive departure. For example, the responsibility for enforcing Article 2 of the Egyptian Constitution (calling on the principles of the Islamic *shari'a* to serve as a chief source of law) was not delegated to an autonomous community of religious scholars versed in Islamic jurisprudential methods. Rather, it fell to the Supreme Constitutional Court, the members of which are all civil law judges with limited training in the principles of Islamic *usul al-fiqh* (Lombardi 2006; Moustafa 2007).<sup>7</sup> Even in those countries where Islamists succeeded in seizing power directly (e.g. Iran in 1979, Sudan in 1989), their governments did not return to an uncodified *shari'a*. Instead, the attempt to recover Islamic law was carried out firmly within existing state institutions (Otto 2010).<sup>8</sup>

## Focus of the Special Issue

This special issue finds that efforts to "restore" *shari'a* through modern state institutions is productive of wholly new legal and political dynamics—dynamics, in turn, that generate new kinds of

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<sup>7</sup> This approach, in which the responsibility for drafting and applying Islamic law is delegated to secular institutions staffed by officials with little religious training, is common. And where bodies of religiously trained jurists have been established to advise lawmakers or vet their bills for compliance with *shari'a*, these bodies are generally either toothless (e.g. Pakistan's Council of Islamic Ideology) or so powerful that they function as *de facto* legislatures themselves (e.g. Iran's Guardian Council).

<sup>8</sup> Osanloo (2009) documents how the revolutionary regime in Iran began to dismantle family law provisions and the judicial institutions that administered those laws, only to quickly backtrack when chaos ensued.

contestation, claims-making, governing strategies, and subjectivities. The goal of this special issue is to focus scholarly attention on these legal, political, and social effects that continue to reverberate from the encounter between the Islamic legal tradition and the modern state.

As a point of departure, we call into question the dichotomies that frequently structure popular and academic discussions of Islamic law, such as religious/secular, private/public, and state/non-state. These dichotomies are not simply tools of objective analytic inquiry. Rather they underpin a number of deeply entrenched binary assumptions about law and religion, which in turn fuel a range of anxieties that circulate both in the “West” and in Muslim-majority settings. These anxieties will be familiar to readers: the question of whether Islam or Islamic law is compatible with political liberalism, democracy, or women’s rights. While these questions are certainly understandable, a central message of this special issue is that the conceptual categories through which we typically assess the “compatibility” of *shari’a* with political liberalism or the modern state are perhaps most reflective of our own assumptions and starting points.<sup>9</sup>

Contributors to this issue show how these binaries, regardless of their empirical basis, are themselves productive of a variety of political projects and subjectivities. In this respect, each of the contributors takes a cue from the work of Hussein Ali Agrama (2012), who argues that the supposed tension between *shari’a* and secularism helps to consolidate state power by generating anxieties that only state intervention can resolve. In Agrama’s approach, secularism is best understood as a “problem-space” within which certain types of questions—for example, the regulation of religious law, the relationship between civil and religious courts, the role of confessional identity—continually arise and acquire their distinctive salience. As a result, “the processes by which secular doctrine is implemented incessantly generate the very question that doctrine aims to answer; namely, where to draw a line between religion and politics” (Agrama 2012:29). The state positions itself as the arbiter of such questions, authorizing its intervention in fields ranging from constitutional politics to intimate family relations.

Agrama’s approach helps to explain both the durability and the political salience of these dichotomies. However, his approach also invites us to consider new forms of identity and contestation that secularism’s problem-space makes possible. For example,

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<sup>9</sup> Sociologist Asef Bayat (2007:3–6) explains that such “compatibility” questions are poorly conceived because they are built upon a reductive understanding of religion that is stripped of social and political context.



Mona Oraby shows in this issue how religious difference is regulated in modern Egypt by way of the state's legal and administrative machinery. She focuses on administrative suits filed by converts seeking to change their official religious status—straightforward requests that generate myriad legal questions and call into question public/private, secular/religious, state/non-state distinctions. Oraby further shows how, in conjoining precepts of the *shari'a* with the concept of public order, administrative judges and other actors address the legal questions generated by state regulation, yet in the process they further entrench the regulatory regime that yields those questions.

Similarly, Katherine Lemons's contribution examines the politics around Indian *dar ul qazas* (*shari'a* courts), non-state religious forums that hear family law disputes. While the *dar ul qazas* may appear to administer a sort of "parallel justice" that is in tension with state law, her research suggests a more complex relationship. Lemons demonstrates that *shari'a* courts and civil courts are separate legal institutions, drawing on and authorized by distinct legal sources and frameworks of adjudication, which are nonetheless inextricably intertwined. Their relationship is best understood as one of complementarity. Indeed, Lemons argues that religious and secular legal institutions in India together uphold the distinctions between public and private, secular and religious upon which secularism relies. Together with Oraby's, this contribution shows how the religious/secular and public/private binaries are constructed, articulated, and sustained by the legal machinery of the state, enabling it to assert its presence and its regulatory authority.

However, if the state is responsible for constructing and policing these boundaries, in many cases, it is also the cause of their transgression. This can be especially true in fragile or the so-called "failed" states, where the state's legal institutions must contend with many non-state alternatives. In such contexts, *shari'a* may possess certain advantages that secular law does not. For example, Jeffrey Sachs shows in this issue how state leaders in Sudan, faced with governing a legally pluralist and politically fragmented space, intentionally discouraged the codification of Islamic law. The resulting legal system, while in many respects "illegible" to those rulers, was also capable of responding much more efficiently to emergent threats. Similar strategies have been observed in other contexts where weak rulers have sought to regulate Islamic law (Benton 2002; Stephens 2014). In such cases, the intertwining of state and non-state law creates new avenues through which political power may assert itself.

This is not to say that these legal formations are only leveraged and manipulated in a top-down manner. State regulation of

*shari'a* typically increases the space for claims-making, especially in countries where Islam or *shari'a* is constitutionally recognized (Moustafa 2018). Because of its fundamental indeterminacy, *shari'a* lends itself to a radically diverse array of agendas. As a result, legal actors on opposite sides of an issue may each find *shari'a*-based claims an attractive way of pressing their case. For example, in Pakistan, where the constitution forbids any law from contravening *shari'a*, public interest lawyers have successfully persuaded the Supreme Court that the principle of "Islamic justice" requires it to strike down illiberal laws and expand human rights (Kennedy 1992; Lombardi 2010). But citing the same constitutional provisions, other lawyers have succeeded in convincing the Court to uphold a criminal ban on membership in the heterodox Ahmadi sect of Islam, despite a constitutional right to freedom of religion (Mahmud 1995). These divergent outcomes reflect the fact that *shari'a* does not map neatly onto a liberal-illiberal binary. Indeed, Michael Peletz's contribution to this special issue shows how Malaysian women have maneuvered to secure greater rights and better access to justice in their country's *shari'a* courts. To be sure, women do not have the same access to rights, but Peletz finds that, far from being a static or uniformly oppressive, the *shari'a* courts have responded to a network of legal aid groups, women activists, and judicial watchdog organizations.

These findings raise important questions: If *shari'a* lends itself to such a wide variety of political projects, how are disputes about its substantive commitments resolved? Why do courts accept some understandings of *shari'a* but not others? And how does the desire for *shari'a* by some balance against other constitutional commitments? Tamir Moustafa's contribution examines how the heavy hand of state regulation has "judicialized" religion in Malaysia. This is a dynamic whereby courts are made to adjudicate questions and controversies over religion, thereby authorizing an "official" religion and/or rendering judgment on the appropriate place for religion in the legal and political order. The result, Moustafa finds, is a cycle of litigation and counter-litigation: lawyers challenge an illiberal law made in the name of Islam on the grounds that it violates a liberal provision of the constitution, only for Islamist lawyers to cite the country's "Religion of the Federation" clause to advance expansive claims about the nature of Islam and its rightful position in the legal order. Repeated over and over, this cycle has gradually transformed the country's case law, with substantial radiating effects on legal and religious consciousness.

One thing that is evident is that *shari'a* commands enormous symbolic power. Surveys show large majorities support state adoption of *shari'a*, even as there is little consensus as to what that adoption would entail (Bell 2013; Esposito and Mogahed 2007). For most

Muslims, *shari'a* is associated with principles of good government and an end to corruption. Lay Muslims may have little knowledge of or interest in the minutia of *fiqh*; rather their support for *shari'a* reflects a belief in its potential to produce ethical citizens and institutions. As a result, the language, images, and sounds of *shari'a* are common features in many political and social campaigns, including for everything from alleviating local poverty (Eltantawi 2017) to sweeping financial reform (Tripp 2006). States have responded to this symbolic power by attempting to nationalize or regulate the sites where it has historically been produced, such as religious institutions or prominent mosques (Zaman 2002; Zeghal 1999). However, Islamic legal subjectivity is increasingly being generated in unexpected locations and in ways less susceptible to state regulation, such as in the aural experience of an urban soundscape (Hirschkind 2006; Salomon 2016) or through the preparation of bodies for burial (Hamdy 2012). More and more, the energy, scope, and sheer velocity of *shari'a* has become impossible for the modern state to regulate, let alone control. Jurisgenesis lives on, in spite of the monopolistic and jurispathic aspirations of many contemporary states.

And perhaps that is the point. In recent years, one of the foremost authorities in the field, Wael Hallaq (2009, 2014) has argued that the moral, political, and epistemological differences between *shari'a* and the modern state are so vast that little of the former—mere “fragments”—can still be found to exist (Hallaq 2009: 366). Operating in a similar register, the prominent scholar of Islamic law Khalid Abou El Fadl has surveyed the current state of affairs and found that “as an epistemology, process, and methodology of understanding and searching...Islamic law, for the most part, is dead” (El Fadl and Khaled 2001: 170). These arguments—Anver Emon calls them the “tragic narrative” of Islamic legal studies (Emon 2016: 280)—link the rise of nation states to the demise of a legal tradition nearly 14 centuries old. But this special issue offers a different perspective. Far from being dead, modern *shari'a* shows extraordinary vitality (Ahmed 2018; Erie (2016); Rosen 2018; Salomon 2016). To be sure, its role in society has been fundamentally transformed by the colonial encounter. And increasingly, *shari'a* is in conversation with alternative conversation with alternative discourses, including liberalism and an Islamic law deployed by the state. Understanding new forms of confluence, contestation, and claims-making, as well as how they are refracted through modern state institutions, should be a primary agenda for scholars going forward.

This special issue evolved out of the proceedings of a workshop, held at Simon Fraser University in 2016, under the theme, *Law, Politics, and Religion in Muslim-Majority States*. The articles herein provide a window onto some of the emerging research focused on the intersection of *shari'a*, politics, and national legal

systems. Two important notes should be emphasized. First, for readers who are less familiar with the legal and political contexts of the cases under study here, the specific focus on religion in this special volume may give a misleading impression that religion counts for *everything* in these legal systems. However, as explained in the opening, outside of family law and personal status law, legal codes that are grounded in religious discourse are the exception and not the rule. Thus, while religion is an important feature of the social, political, and legal landscape, a focus on religion as a category can risk oversimplification and reification (Smith 1962; Sullivan 2005).

Second, it is worth mentioning that there is now a high volume of quality scholarship on Islamic law and society. Several recently published examples are reviewed in this issue. However, most of the existing scholarship runs *in parallel* to mainstream law and society work rather than in dialogue with it. Many of the leading and emerging scholars in Islamic law and society are not yet engaged with canonical work in the field, and many do not consider the Law and Society Association or its flagship journal, *Law & Society Review*, as potential homes for their work. This is surely a missed opportunity for cross-fertilization, not only for scholars of Islamic law and society but also for the broader community of *LSR* readers who work on issues of law and religion, legal consciousness, legal pluralism, rights contestation, or any number of substantive areas that are core to our field. We hope that this special issue will help to close the gap between scholarship on Islamic law and society and the broader field of law and society.

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