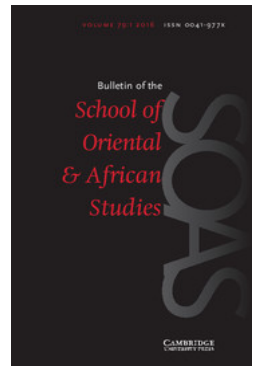

Anver M. Emon: *Religious Pluralism and Islamic Law. Dhimmīs and Others in the Empire of Law*. (Oxford Islamic Legal Studies.) xiv, 367 pp. Oxford: Oxford University Press, 2012. ISBN 978 0 19 966163 3.

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essential reading for anyone involved in researching or teaching this important phase of Islamic history.

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ANVER M. EMON:
Religious Pluralism and Islamic Law. Dhimmīs *and Others in the Empire of Law.*
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This is not an easy book. It addresses a prime concern of both pre-modern Muslim and modern Western societies: how to regulate religious pluralism and to govern amidst diversity. Emon posits that in this context, the language of tolerance is not helpful since it conceals the power dimension inherent in the exercise of toleration. Nor is it helpful to conceive of *Shariʿa* (solely) as divine law. Rather, he argues, *Shariʿa* should be viewed as Rule of Law. Jurisprudence, law, and "the enterprise of government" are intertwined, and legal theory and political theory intersect. As a "claim space", and a "juridified site for debate" (p. 95), *Shariʿa* rests on assumptions that need to be widely shared in order for it to be "intelligible". The assumptions shared by the Muslim jurists who elaborated the *dhimmī* rules include the universal scope of the Islamic message and the commitment to an imperial model of governance. For those who share these assumptions, the *dhimmī* rules appear intelligible, legitimate and just. This, he argues, was the case throughout much of the pre-modern period. Since the colonial age, however, and more particularly since the advent of the postcolonial nation state, they are no longer accepted by either Muslims or non-Muslims, and as a consequence, recourse to these rules has lost its "intelligibility".

In Part I, Emon takes the reader through several phases of (early) Islamic history and core elements of legal *dhimmī* rules: the Muslim community in Medina and its battles with the local Jewish clans; expansion, conquest and the establishment of an Islamic empire; the integration of converts to Islam; and the challenge of ruling over large majorities of non-Muslims. Emon interprets the contract of protection (*dhimma*) as a legal instrument of political inclusion *and* marginalization, focusing on the so-called Pact of Umar (regrettably, he does not seem to have seen Mark R. Cohen's discussion of this document), the poll tax (*jizya*), and non-Muslim religious practice in the "public sphere", ranging from religious buildings to ritual to dress (here, Emon could have referred to Albrecht Noth who discussed sartorial markers of difference several decades ago). Taken together, the *dhimmī* emerges as both insider and outsider (p. 88), whose traditions and some of whose legal institutions were significantly acknowledged and accommodated by (many) Muslim jurists (p. 113). This is persuasively argued, with frequent recourse to the relevant Arabic legal sources. But it is also familiar ground, and I would think that most Islamic scholars and historians of this period will find little that is new. The conclusion that the *dhimmī* rules cannot be "reduced to a static interpretation of either harmony or persecution" (p. 91) has been drawn before and is widely shared by the scholarly community.

Part II moves from the earlier period to the post-colonial state, and the concomitant shift from the imperial to the international state system, in which what Emon calls the intelligibility of *dhimmī* rules has largely evaporated. After a brief but interesting discussion of the nature of *Shariʿa* under modern conditions, when it is widely invoked as a source and symbol of legitimacy and authority (p. 172), Emon reverts again, and at considerable length, to the themes of *Shariʿa* as Rule of Law and the intersection of law and governance. Indeed, there is so much repetition here that the reader keen on following the main argument might as well start the book on p. 168 (chapter 5). Emon deals first with *madrasa*s, their curricula, and *ijtihad* in the pre-modern period (with a very interesting discussion of epistemic authority on pp. 201–6) and then moves to the post-colonial modern state, which, he claims, tends to look to pre-modern models, originally designed under an imperial setting and premised on hegemony, in order to regulate diversity under vastly changed circumstances. The final chapters once again address the theme of governance amidst diversity, arguing that far from being unique, pre-modern Islamic *dhimmī* rules offered answers to a universal challenge, one equally relevant to modern Western societies. In order to illustrate the link between hegemony, anxiety, and minority rights, and the commonality of pre-modern Muslim and modern Western experiences, Emon focuses on a number of court cases concerning female veiling. Unfortunately, he does not take the comparison any further, denying it the depth and detail of his discussion of *dhimma*.

Throughout, the author emerges as subtle, critical and erudite. If he chooses he can be beautifully concise and clear. But who should read his book? To those interested in the legal-*cum*-theological arguments informing pre-modern *dhimmī* rules chapters 1–5 have much to offer. Those interested in current debates on minority rights will benefit from reading chapters 6, 7 and the conclusion, although I suspect that political and social scientists will find the comparison unsatisfactory. For the historian (and I would think the legal anthropologist, too) the attractions are less obvious. Too much of the book covers familiar ground, and some of the insight is buried under endless repetition. The book would have benefited much had the author (and/or his editors) credited the reader with a better memory. No one interested in the subject needs to be told dozens of times that law and "the enterprise of governance" intersect. In addition, one is surprised by certain blind spots in so sophisticated an author: one concerns his almost exclusive focus on Islamic legal writings, in Arabic, from the eighth to the early fourteenth century CE. What about the five centuries leading up to the colonial period? Is there nothing to report from the intersection of law and governance under the Ottomans, the Safavids, or the Mughals? And why are modern discussions of *dhimma* and *jizya* (outside state legislation) hardly mentioned? Every book needs to have a focus, no one can cover everything, but it would be good if the author briefly explained his choices. The other blind spot concerns the scholarly literature in languages other than English. We live in an age of globalization, and yet with regard to language, scholarship tends to become more and more myopic. Emon is no exception in largely ignoring research literature in French, German or Spanish. But the virtual absence of the critical literature in Arabic (as opposed to source material in this language) calls for an explanation. Modern Arab scholars have contributed much to the debate on *Shariʿa*, *dhimma*, pluralism and citizenship. They should not be ignored in critical scholarship, least of all in a study dealing with hegemony.

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