

## **BOOK REVIEW:**

# **ISLAMIC LAW AND INTERNATIONAL LAW: PEACEFUL RESOLUTION OF DISPUTES BY EMILIA JUSTNYA POWELL**

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International dispute resolution is an area of international law that implicates the entire world in one way or another. Nevertheless, approaches towards international conduct in regard to dispute resolution are not uniform. A variety of factors influence a state's choice of procedure or forum of dispute resolution. While discussions on forum shopping are not new, the uniqueness of this work lies in its choice of subject. Powell pioneers in discoursing on how the Islamic legal tradition influences a state's choice of forum for resolution of its international disputes. Moreover, Powell's work represents a valuable addition in the international legal scholarship propounding the compatibility and promoting a much-needed dialogue between Islamic law and international law. Premised on a rigorous analysis of what the author labels "Islamic law states" or ILS, she maintains that the complexity and uniqueness of ILS underscore the need for a refined theory of Islamic peaceful dispute resolution. Not only does the book offer its reader an empirical analysis of patterns of behavior prevalent in ILS, and the theoretical framework for peaceful resolution of disputes, but also touches upon policy considerations to be borne in mind while dealing with the ILS.

Touching upon a myriad of issues, at the very outset Powell addresses whether international law's cardinal notion of plurality is challenged by an intrinsically religious legal system. Bearing in mind the historical and philosophical multiformity of Islamic legal thought, the author proposes that the Islamic legal tradition is not fundamentally opposed to international law. Both systems, the book argues, commit to upholding the rule of law, value justice and lay emphasis on the peaceful resolution of disputes. While going through the chapters, the reader gets a sense of the painstaking amount of work and effort that has been put into it. Through an empirical study of thirty Islamic law states, the author journeys to discover patterns of common behavior among these states at the international forums.

Powell manages skillfully to highlight the lack of inclusivity of international law. Her contention on the lack of pluralism relies on the jurisprudence of the International Court of Justice (ICJ). Examining numerous contentious cases and advisory opinions of the ICJ, Powell notes that the court sought reference to Islamic law only once (in the Bahrain Qatar dispute). Such alienation of the Islamic legal tradition plays a crucial role in shaping the ILS's perception of the ICJ.

Powell uses the state practice of the ILS and their attitude towards international law, in general, and peaceful resolution of disputes, in particular, for gauging compatibility of the Islamic legal tradition with international law. It is through such analysis that Powell highlights the inherent diversity of the ILS contrary to the popular belief of a monolithic Islamic legal tradition. Through an in depth look at Islamic law, as practiced in the ILS, the author reveals how it is interpreted in different ways depending on the country, its

culture and the very people conducting the interpretation. This diversity, she argues, makes room for accommodating principles of international law by the ILS.

This in-depth analysis of ILS helps Powell establish two important facts i.e. the governance of each of these states is structured on a mix of religious and secular laws and this fusion is what allows the ILS to interact with international law. An understanding of domestic legal systems of the ILS, Powell insists, is crucial in determining how they conduct themselves internationally. In this regard, the nexus between Islamic and secular elements within an ILS's domestic legal system is studied to determine its receptiveness towards various modes of international dispute resolution.

The study contends that an ILS's choice of forum for international dispute resolution is determined by the degree to which the Sharia controls and is incorporated into its legal system. On the one hand, supremacy of Sharia within the jurisdiction of an ILS, this work illustrates, is what causes it to gravitate more towards informal and non-binding modes of dispute resolution such as conciliation and mediation. Echoing the concept of *sulh* (amicable settlement), one that underpins the Islamic law paradigm of dispute resolution, these less adversarial modes become the obvious choice for Sharia embedded ILS. On the other hand, ILS whose domestic legal systems are accommodating of secular features tend to lean more towards legalistic and confrontational approaches, such as arbitration and adjudication.

This work may well be viewed as an important starting point into discussions on ILS approaches towards international dispute resolution. Through conducting a thorough inquiry into the role played by Islamic law within

domestic legal systems and its general esteem within the Islamic milieu, Powell successfully propounds a theory of Islamic international dispute resolution.

In all, the book is not only authentic but also the first of its kind on an issue of contemporary significance. It enriches the reader's understanding of Islamic law by collating data from a considerably large cluster of Sharia compliant domestic legal systems. It will undoubtedly appeal to students and academics of Islamic and international law as well as those tasked with legislation and policy making in Muslim states.