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Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning

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In the context of today’s U.S. political and religious debates over whether the institution of marriage demands two opposite sex partners, it is refreshing to read an account of the complex interplay of individual strategy and multiple and overlapping normative orders. These factors are continually ungrounding and revising marriage, gender, and family in what is perhaps the United States’s contemporary doppelganger: Indonesia. Multiethnic; multireligious; multicultural; linguistically diverse; grappling with the limits of pluralism, tolerance, and civic inclusion; and rife with political corruption, Indonesia presents to the United States a mirror reflecting a majority-Muslim, instead of majority-Christian, face. Indeed, what strikes the reader of John Bowen’s lucid, informative, and richly illustrated account of the emergence of a public and Islamic justice is the unending and cacophonous character of contemporary legal debate there. Shot through with shifting conceptions of reasonableness, consensus, and a notion of jurisprudence as living, not static, the Indonesian scene described by Bowen contrasts sharply with the tired polarizations and unreflective “arguments” that often pass for legal reasoning here. This is not to romanticize the Indonesian situation—Bowen’s text is filled with injustices, inequalities, the histories of colonialism and dictatorship followed by ethnic and sectarian violence, and the centrifugal tendencies of the post–New Order state—but, rather, to reflect on what can be gained, still, from an ethnographic inquiry into legal reasoning someplace else.

Bowen has a related project in mind: Although the book explicitly engages Western political theory—specifically, theories of liberal pluralism and multicultural democracy—it is more centrally concerned with challenging a prevailing image of Islamic law in the West (p. 19). Bowen wants to demonstrate “the breadth of Islamic sociolegal reasoning” (p. 146). Far from portraying Islamic jurisprudence (fiqh) as static and fixed, Bowen emphasizes the muddle, the fallibility, and the thickly interpretative work involved in negotiating the multiple sources of law in Islam (p. 15). At another level of scale, this muddle and multiple sources reflect the Indonesian legal scene, in which colonial crystallizations of “customary law,” or adat, intertwine with Islamic and national law as resources for reasoning and argument. At still another level of scale, Bowen shows how Indonesia and anthropology both trouble multicultural liberalism, not merely by pointing to its culture-bound character but by introducing these problems of perspective and scale. Indonesian pluralism is after all “internalized”: Among the constituent peoples that make it up, “a consciousness of other societies [is] at the core of each society’s self-definition” (p. 12). The same could be said of anthropology, of course. If there is a recursivity to Bowen’s argument, it is because it reflects the recursivity of both its object of study—“Indonesia”—and its disciplinary formation within which the argument is made—“anthropology.”

This is a rich story of Indonesian legal history. Bowen charts the Dutch colonial state’s definition of adat as a counterweight to Islam, and the Indonesian state’s efforts to limit Islamic law to those instances in which it has been “received into” adat (p. 48–51). Islamic law fell into a temporal contradiction: To be considered local custom, Islamic law had to “become the general way of doing things,” which would require its being upheld by local courts, which were
constrained from recognizing Islamic law unless it was already local custom (p. 51). Bowen documents the ambiguity at the core of adat: Is it “traditional rules” or the social conventions “in fact followed in a particular place . . . at a given moment” (p. 51)? The ambiguities and temporal paradoxes of adat and its relationship to Islamic law became a resource for judges, too, as they would reach conclusions about particular cases involving past actions based on “the likelihood that men or women would have acted in certain ways in certain periods” (p. 122). Judges thereby introduced an element of critical retrospection into the muddle of Indonesia’s various normative orderings, revealing that apparently universalistic forms of reasoning are “part of a multilevel network of reflection, argumentation, and debate—public reasoning across levels of society” (p. 123).

Throughout, Bowen illustrates his argument with case material drawn from the Gayo highlands of Sumatra, as well as its regional urban center, and national-level discussions about law and jurisprudence. In the best anthropological tradition, he provides accounts of inheritance and marriage disputes elegantly described and rigorously analyzed. He moves seemingly effortlessly between extremely local arguments over land to extremely national or even cosmological arguments over the sources of authority in Islamic jurisprudence. He provides a thorough account of the bureaucratization of fiqh in the 1992 Compilation of Islamic Law as well as an engaging discussion of the debates among Indonesian fiqh scholars about local context and cultural specificity in the past and future contours of Indonesian Islamic legal reasoning.

Bowen does his readers the service of illustrating how an anthropological account of people’s varieties of “reasonableness” in accounting for “their own pluralism of values in carrying out their affairs” can inform our own efforts at “principled reflections, as well as vigorous disputes” (p. 268), about the dynamics and enduring possibilities of multicultural democratic societies. In the process, he exemplifies the possibilities of an anthropology in public reasoning as well as of it.


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“Extinction discourse,” the subject of this book, refers primarily to English-language literature written from 1800 to 1930 that either treats the destruction of indigenous peoples as inevitable or mourns their disappearance. This label applies to virtually everything written during that period about the relations between European, Euro-American, and indigenous people on all the frontiers of colonial expansion. “Indigenous peoples” are not just small-scale tribal societies but everyone the British and Americans considered to be “savages” or “primitive races,” including the Irish and Pacific Islanders. This book is not about what happened to indigenous peoples; it is about what was written at the time about what happened, or about what people thought would happen to indigenous peoples in the future. This might be confusing for a reader who wants to understand the “real” events and causes as an ethnohistorian might reconstruct them. Many of those details are here, but they are buried in the narrative, and it is sometimes difficult for the reader to sort out what might be “real” events, facts and figures, from what people imagined about these events. In some cases, readers might even wonder whether particular extinctions actually took place. Such uncertainty is in the nature of history and literary criticism. Brantliner is professor of English and Victorian Studies at Indiana University and treats his subject as cultural studies. Nevertheless, this reader, already broadly familiar with the history, found much that was new and gained many valuable insights in this fine book. It is a very rich collection of historic writers, sources, and quotations, all combined in a useful way. The extensive examples of the argument that autogenocidal cultural practices caused extinctions are especially illuminating. Judicious selections from Charles Darwin, Francis Galton, and Herbert Spencer vividly portray the inhumanity inherent in 19th-century evolutionary theory as it was applied to people by the principal theorists.

I agree with Brantliner’s interpretation that extinction discourse expressed imperialist and racist ideology. However, Brantliner also asserts that this discourse was so powerful that it actually produced the extinction of which it spoke. I can readily accept a supportive role to extinction discourse but do not take it to be the primary cause of genocidal extermination policies. Certainly ideas do have power, but this should not obscure the reality that extinctions also resulted from human decision making implemented within the institutional structures of global capitalism and backed by superior force. Brantliner does observe that writers of extinction discourse listed violence, warfare, genocide, and disease as the “main causes” of extinction, along with the “fantasy of auto-genocide” (p. 2). Presumably they were right about all of these causes except autogenocide.

According to Brantliner, virtually everyone—missionaries, government officials, anthropologists, humanitarians, novelists, and explorers—who wrote about the fate of indigenous peoples at the hands of Europeans, were all engaged in extinction discourse. Brantliner makes a convincing case about the consistency and pervasiveness of inevitable extinction as a theme, but in my view he overreaches when he makes all these writers guilty of causing extinctions. Even those who wrote about “noble savages” and who regretted and condemned their extermination are said to be guilty of “proleptic elegy.” This is holding the funeral before the death or writing about the future as if it has already happened. Indeed, to say that extinction was inevitable and then do nothing to stop it was to engage in self-fulfilling prophecy. However, there were a handful of idealists who rejected the inevitability argument and fought hard to change destructive policies.