

## BOOK REVIEW

**Emilia J. Powell, (2020). *Islamic Law and International Law: Peaceful resolution of disputes*. New York: Oxford University Press, 311pp.**

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It is widely known that most Muslim citizens of the Islamic law states (ILS) wholeheartedly commit to the Sharia. Some other Muslims living in Muslim majority states generally are also ethically and doctrinally bound to the Sharia because Muslims believe that the Sharia has always claimed absolute validity for Muslims as individuals. Muslims believe that Sharia is not a book of statute imposed by the state or any other institutional organs such as international regimes, but they rather perceive the Sharia as a moral and ethical guidance for Muslims. Thus, it has been known for years that the application of the Sharia has been generally in contention with human rights law because these two entities contain morality and ethical values.

Reading Emilia Justyna Powell's book on the discussion of the relation between Islamic law and international law in terms of peace resolution into the realm of international law is quite unique. Yet, is it worth to shift the discussion of Islamic law to the realm of international law? The question is basically to answer some asymmetric substances between the two because Islamic law generally governs Muslims as individuals, while international law governs states. Unlike human rights law that contains morality and ethical values, international law is the law governing the relations between states. While Islamic law contains divinity elements that cannot be amended and will result in the government to be under God in ILS, international law contains dynamic secular ideas that have been developed for years (p. 28). Even though the position of Islamic law in contemporary ILS has become the spotlight due to its increasing reception by ILS and Muslim majority states, these asymmetric positions will very likely put Islamic law inferior to international law.

Powell knows exactly that the Sharia is the most authoritative law in many ILS and she is also correct to focus the book on how ILS view conflict management between states. There has been the shifting of Islamic law from the law that governs between the relations of ILS and non-ILS in the early phase of Islam. In the contemporary realm, Islamic law is authoritative only in domestic laws such as family, criminal, and personal laws. On the other hand, international law has expanded its scope to govern state behaviors, individuals, organisations and other groups such as liberation movements (p. 30). The essential part of Islamic law that still binds *de facto* and *de jure* all individuals is *siyar*, or Islamic international law. Yet, its application and jurisdiction are limited to ILS as *siyar* is part of Islamic law usually adopted by ILS. The Islamic international law with a particular focus

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on the relations between ILS and non-Islamic states has been introduced and practised by early Muslim jurists, particularly in the Middle Ages such as Muhammad ibn al-Hasan al-Shaybani (p. 89).

Since the establishment and the empowerment of the United Nations and international law regimes especially after World War II, the jurisdiction and authority of Islamic international law has been decreasing. One of the reasons is the secular character of international law that has been supported by most non-ILS, while religious nature of Islamic law is very unlikely popular outside of the ILS. The other contention is that most Muslims believe that all non-Islamic legal traditions, including international human rights law and international law, are inferior to the Sharia (p. 101). Yet, the global phenomenon asserts that international law is very superior compared to Islamic law because all sovereign states including ILS should follow the standard of international treaty, judicial decision, and resolutions of the UN (p. 177).

The appearance of Islamic law in international realm depends almost entirely on the personal interest of a person, not due to institutional policies (p. 137). Yet, Islamic international law usually becomes an alternative solution for ILS. For example, in dealing with dispute resolution especially between or among ILS, they generally avoid bringing the case before the International Court of Justice (ICJ) and propose settlements by mutual consent through mediation, conciliation, and good offices to reach resolutions (p. 175). When the case is brought within the ICJ proceedings, such as the *Western Sahara* case, ILS as the parties would propose that the ICJ should consider the notion of the territory of Islam. The Islamic legal arguments during the ICJ proceedings can also be found in the case of *Libya v. Chad* when Libya based its claim on legitimate religious authority over the people inhabiting the Aouzou strip (p. 178). These legal arguments are very likely rejected by the ICJ that generally base its verdict on the secular character of international law.

Overall, the book discusses clear and significant appearances of Islamic law in dispute resolutions involving ILS. The book also asserts that ILS propose Islamic law or any other relevant legal arguments in dealing with dispute resolutions as part of their efforts to provide alternative solutions as well as their personal legal opinion during the court proceedings. Yet, when the case is brought before the international law regimes such as the ICJ, the book demonstrates that the position of Islamic law is still inferior to international law because all established international law institutions still use international law as the basis of their decision. Powell's study also shows that when most ILS still prefer to resolve disputes among them by referring their disputes to international law institutions, it also asserts that the position of Islamic law in international realm is only complementary.

Apart from the discussion on the asymmetric relations between Islamic law and international law, the book is also significant in that it offers insight into the legal dynamics within ILS when they are in disputes. It has been known that most people and governments from non-ILS perceive Islamic law and the interpretation of ILS against Islamic law is

monolith. Many people still believe that the implementation of Islamic law is full of cruelty, anti-democracy and against human rights. Yet, this book clearly shows that there has no monolith development of Islamic law in ILS (p. 273). The reality of Islamic law development is even more dynamic in the Muslim majority states such as Indonesia, Malaysia and Turkey. To sum up, it is true that Islamic law is more binding in domestic spheres, but when it deals with the internal dimension of the ILS, especially when dealing with state relations, its binding power decreases.