

Emilia Justyna Powell

Book review

<https://doi.org/10.54561/prj1502439g>

Date received: May 21, 2021

Date accepted: June 5, 2021

“ISLAMIC LAW AND INTERNATIONAL LAW: PEACEFUL RESOLUTION OF DISPUTES”

Oxford University Press, 2020, 328 pages, ISBN 9780190064631

The concept of peaceful dispute resolution, as enshrined in the United Nations charter, is an integral part of all legal traditions. In the international arena disputing states can resort to a variety of methods including, but not limited to, negotiations, mediation, arbitration, and adjudication to resolve their disputes peacefully. In *Islamic Law and International Law: Peaceful Resolution of Disputes*, Emilia Justyna Powell empirically examines the nexus of Islamic law and international law by investigating the preferences of Islamic Law States for different dispute resolution methods.

In Chapter 1, Powell first lays out her argument and subsequently provides relevant background on both modern international law and Islamic law (which she describes more carefully in Chapter 2). As her central unit of analysis, Powell chooses a category of states named “Islamic Law States” (ILS). She defines an ILS as “a state with an identifiable substantial segment of its legal system that is charged with obligatory implementation of Islamic law, and where Muslims constitute at least 50 percent of the population” (Chapter 2, p.42). This definition, which includes twenty-nine states in Africa, Asia, and the Middle East, recognizes the diverse and dynamic range of ILS’ legal systems. Through her analysis of the legal system of each of the Islamic Law States, Powell demonstrates that the ILS category encompasses a range of continually changing legal systems, which fuse secular and religious law to varying degrees.

Powell compares and contrasts international law and Islamic law in Chapter 3. Although Islamic law is a legal system that is inseparable from religion, and international law is essentially secular, Powell maintains that there exist substantive and procedural similarities between these two legal systems including their shared belief in the rule of law. While there exist noteworthy discrepancies between international and Islamic law, such as Islamic law’s preference for nonconfrontational methods of dispute settlement, Powell argues that the Islamic legal tradition contains elements that are compatible with modern international law. This analysis provides the basis for Chapter 4, in which Powell details her theory of how ILS engage in the peaceful resolution of territorial disputes.

States face uncertainty about the legal procedures of different dispute resolution venues as well as with regard to the dispute's final outcome. This is especially the case for Islamic Law States, whose legal tradition is largely excluded from international dispute settlement venues. Thus, these states generally search for venues that minimize their uncertainty and strategically select venues that mirror their domestic legal institutions – an argument that Powell has empirically validated before.¹ Applied to Islamic Law States, which exhibit an inclination to solve domestic conflicts in a non-binding manner and in informal settings, Powell's theory predicts that ILS prefer less formalized and less binding methods of international dispute resolution such as mediation and conciliation. This is exactly what the data confirms in Chapter 5: states that reveal a commitment to Islamic law in their domestic legal system exhibit statistically significant preferences towards less-binding dispute resolution methods. Powell corroborates these results by controlling for the economic, ethnic, and strategic value of the territory in contention as well as the disputing states' relationship as captured by their joint democracy score and their prior engagement in armed conflict.

In Chapter 6, Powell extends her analysis to the International Court of Justice (ICJ). Here too, her theory is supported by the data: ILS that incorporate secular features in their legal system are more likely to recognize the jurisdiction of the ICJ than states that exhibit a stronger commitment to Islamic law. Finally, in Chapter 7, Powell discusses the impact of ILS' adherence to a particular legal school, as well as their regional variations on dispute resolution preferences. Based on the fact that most states no longer promote a particular legal school and instead make broader references to justice or jurisprudence in the laws, Powell correctly predicts that adherence to a legal school does not significantly affect international dispute resolution preferences.

This book is commendable for several related reasons. First, given that Islam and the Islamic legal tradition often fall victim to prejudiced attacks, it is paramount that scholars approach these subjects with humility and objectivity. Powell exhibits these qualities throughout her analysis and acknowledges that she is writing as an international law scholar and not an Islamic legal scholar (Chapter 1, p.18-19). While some may be wary of applying Western social science methods to the Islamic legal tradition, it is evident that Powell approaches her subject with impartiality and good faith. It comes as no surprise that her work has been praised by scholars of all traditions and creeds across the world.

Second, Powell carefully combines quantitative and qualitative data in her analysis. In addition to novel data on the legal systems of all Islamic Law States, she incorporates interviews of international lawyers, judges, and policy makers, such as Awn Shawkat Al-Khasawneh, former vice president of the ICJ. By merging her empirical research with insightful interviews, Powell is able to thoroughly

1 Emilia Justyna Powell and Sara McLaughlin Mitchell, *Domestic Law Goes Global: Legal Traditions and International Courts*, Cambridge University Press, 2011.

conceptualize complex legal dynamics and processes, rendering them much more understandable.

Third, *Islamic Law and International Law: Peaceful Resolution of Disputes* is the first book in the English language to empirically investigate whether similarities and differences between Islamic and international law shape ILS' preferences toward international conflict management venues. As such, it is of great significance to anyone who is interested in international law, international relations, comparative law, and the complex relationship between religion, law, and politics.

Benedikt A. Graf²

2 Benedikt A. Graf studied under Emilia Justyna Powell at the University of Notre Dame where he assisted in her research endeavors. Mr. Graf is currently pursuing a Master of Arts in Applied Economics at the University of California, Los Angeles. Contact E-mail: bagraf@g.ucla.edu