The Journal of Legal Pluralism and Unofficial Law

ISSN: 0732-9113 (Print) 2305-9931 (Online) Journal homepage: http://www.tandfonline.com/loi/rjlp20

Muslim women's quest for justice: gender, law and activism in India, edited by Mengia Hong Tschalaer

Elizabeth Albuquerque Pelisson

To cite this article: Elizabeth Albuquerque Pelisson (2018) Muslim women's quest for justice: gender, law and activism in India, edited by Mengia Hong Tschalaer, The Journal of Legal Pluralism and Unofficial Law, 50:1, 114-116, DOI: 10.1080/07329113.2018.1423775

To link to this article: https://doi.org/10.1080/07329113.2018.1423775

THE JOURNAL OF LEGAL PLURALISM AND UNOFFICIAL LAW, 2018
VOL. 50, NO. 1, 114–117

Routledge
Taylor & Francis Group

BOOK REVIEWS

Muslim women's quest for justice: gender, law and activism in India, by Mengia Hong Tschalaer, Cambridge University Press, Cambridge, 2017, 227 pp., £85.00 (hardback), ISBN 978-1-107-15577-0

This book emerges as a landmark while portraying a profound ethnographic investigation on the women's struggle for gender justice within multifaceted social and legal landscapes in post-colonial India. Undoubtedly, its breakthrough reflections are valuable tools for anyone who is engaged in legal pluralism studies, as well as for those who are interested in feminist legal theory. In short, it is an indispensable reference, including also for scholars involved in the law and globalization domain.

Currently adjunct assistant professor of Law and Society and Anthropology at the City University of New York, the author, Mengia H. Tschalaer, a high-qualified researcher in the field of legal anthropology, has developed an extremely careful fieldwork about Muslim women's mobilization for their rights in the Indian context, resulting in important published articles in this matter. Rooted in her previous experiences, in the present work Tschalaer has identified the diverse pathways found by Muslim women in Lucknow to fight for their claims for gender justice.

The author has highlighted, then, that these women – far from being passive victims – challenge the patriarchal structure in religious and state legal spaces through alternative production of knowledge built on and expressed in personal networks, historical connections, institutional ties, political debates and public contestations. Mobilizing a legal consciousness, emphasizing that knowledge is power, these activist women developed many approaches to adjudicate fairer norms and interpretations[1] of family law.

From designing more gender equitable marriage contracts (*nikahnama*), setting up alternative dispute resolution mechanisms, to using forum shopping in order to maximize their chance for justice and as way to have their dignity and rights for alimony and housing recognized, among others, they exercise their agency in ambivalent territories like the state courts and Islamic orthodox institutions as AIMPLB (All Indian Muslim Personal Law Board) and AISPLB (All India Shia Personal Law Board). Here, their embodiment of respectability through the symbolic language of purdah, which expresses modesty, piety and shyness, for example, turns into as empowerment for their demands and public participation.

To gather such insights, Mengia Tschalaer, based in an interrelational perspective on law and gender, concentred her research in three women organizations, namely the All India Muslim Women's Personal Law Board – AIMWPLB, founded in 1937 under British colonial rule and containing a reformist perspective; the *Bharatiya Muslim Mahila Andolan* – BMMA (Indian Muslim Women's Movement), marked by a secular face and created in 2005; and the *Bazme Khawateen*, (Women's Club), established in 2007 and characterized by a more conservative viewpoint.

The choice of these groups are not casual since they adopt distinguished discourses and strategies to achieve their goals of emancipation. Moreover, tracking the mentioned organizations allowed the author to discover how the plurality of voices expressing a variety of ideological and political perspectives shapes such grassroots movements on Islamic gender justice. Nevertheless, it should be remembered that there is a vivid porosity and flexibility between those legal and ideological boundaries in such grassroots struggles.

Furthermore, the author had involved in her research a large range of Muslim women in Lucknow, reporting their heterogeneity in their occupation, educational background, social class, marital status, place of origin, spoken Hindi/Urdu dialectics, expectations toward religion, gender and justice, and so on. She also collected English-language newspapers that noticed the Muslim women's activism in the city.

Under a non-participatory methodology and support of translators from Hindi/Urdu to English, she equally interviewed and followed the proceedings led by the two most powerful arenas for adjudication and production of Muslim family law in Lucknow, which are the state-administered Family Court, a district court organized under the Family Court Act of 1984, as well as the informal Shariat-court system of the AIMPLB.

While the former adopts the state-promulgated Muslim Personal Law grounded on government's politics of group-differentiated citizenship, the latter through its system of *darul quazas* (houses of adjudication) applies Islamic texts such as the Quran, Shariat, Sunnah and Hadith. Therefore, it occurs not only as an imbrication in the multilayered application of social and legal norms, as it shows conflict between them that opens horizons for women to destabilize hegemonic patriarchal patterns of power and authority.

It only reveals how deeply complex is the myriad of sources concerning the Muslim women's legal subjectivity in Lucknow. Mengia Tschalaer intends to evince that the Muslim women's activism in the city exists in a scenario where law and religion are fragmented rather than unitary, and both normative orders overlap rather than be atomically distinct. Thus, the rapidly changeable production of discourses disputing the meanings of women's rights never will be restrict to the state, nor confined to its legal system.

As a consequence, law consists in a space beyond essentialism and universalism, being so the idea of third space as punctuated by Homi Bhabha. Bridging the classic divide between secularism and religion, East and West, formal and informal (21), the author underlines the Sousa Santos' concept of interlegality. Then, the ideas of hybridization and vernacularization, where knowledge-brokers are essential actors, become central to understand either Islam as a flexible discourse, or the process of translation of international legal standards to local settings.

Meanwhile, even acknowledging those great contributes of the book for whom works with access to justice and human rights, some minor aspects regarding the layout must be amended; more precisely, the footnotes 23 onward in the Chapter 3 are not coincident with the referred information in the main text.

Additionally, there is still room to further explore the issue, particularly the potentiality of initiatives such as women's Shariat courts initiated by the BMMA, as the impacts of alternative legal arenas engendered recently by the others two women's organizations. Amidst the creation of these women's legal spaces, they combat the fringes that still outstanding for exclusion of stigmatized groups like lower castes and women in the mainstream terrains of interpretation and application of law. Certainly, future works of the author in such subject will be profoundly welcome.

To conclude, it is fundamental to stress that this referential book well accomplishes the function to break with any hierarchizing model of legal pluralism through its focus on the subaltern legal subjectivities of Muslim women, an extremely marginalized social group in contemporary India, always underlining both the categories of women's rights and the Islam as epistemological constructs.

For now, as Mengia Tschalaer recalls, it remains to academics and practitioners to develop effective tools and mechanisms that envisage the multidimensionality of legal pluralism on local, national and global levels, analysing polycentric legalities under critical and cosmopolitan approaches. The current work surely will enlighten us in this interesting and necessary journey.

Note

1. Or *ijtihad*, i.e. meaning at same time the right to interpret the Islamic scripts and the interpretative science of juridical reasoning.

Elizabeth Albuquerque Pelisson
Maastricht, The Netherlands
elizabeth.pelisson@gmail.com

https://doi.org/10.1080/07329113.2018.1423775

When courts do politics: public interest law and litigation in East Africa, by J. Oloka-Onyango, Newcastle upon Tyne, Cambridge Scholars Publishing, 2017, 358 pp., L64 Hardback; ISBN-13: 978-1-4438-9122-6; ISBN-10: 1-4438-9122-3.

This excellent book is an in-depth study of public interest law in East Africa, primarily Kenya, Tanzania and South Africa. Oloka-Onyango writes clearly on a subject that is close to his heart. He was a co-founder of the Public Interest Law Clinic in Makerere. A Fulbright Scholarship at George Washington University in Washington, DC, one of many honors that helped support his research on this important topic. Basically, Oloka-Onyango is concerned with the way courts apply the law to safeguard the elite and powerful people and agencies which they represent. He is clear in stating his conflict theory roots, roots clearly from Marxist sources. He makes his case quite clearly over a preface, introduction, and seven clearly written chapters. In each of the seven chapters, he notes what is often a hidden bias and exposes it to the clear light of his exposition.

In chapter 1, for example, he investigates the concept of "standing." The concept, when unpacked, is a means for enabling the ruling class to keep its poser. Oloka-Onyango demonstrates how the structural underpinnings of law in East Africa, and by extension in the rest of the world, is stacked against the people. He makes his point that courts are always involved in politics, generally on the side of the establishment. His aim is to spread the news of his Public Interest Law Clinic; specifically, that there are ways to challenge the status quo and break the stranglehold that the powerful have over the powerless.

The remainder of the book illustrates these points clearly. Chapter 2 faces the issue of the precolonial heritage of East Africa and attempts to go beyond it in the postcolonial world. The author has harsh things to say about Jomo Kenyatta, who, he asserts, couched his postcolonial language in socialist terms while truly being pro-capitalism. In any case, the problems of precolonial oppression and postcolonial life faced all the newly independent countries. The issuance of Bills of Rights was a new phenomenon in African Law.

Chapter 3 takes on the significant issue of the strain between transformative law in the public interest and constitutionalism. The author brilliantly shows the strain between the public interest and that of the state sheltered in constitutionalism. He brilliantly notes the continuation of colonial attitudes in the post-colonial state. It has been his work to exploit and expose these contradictions in the interest of justice.

In chapter 4, the author combats the issues of gender discrimination against women and homosexuals. He concludes the chapter with these powerful words:

> In sum, discrimination against sexual minorities will also end. However, the demise of such discrimination will in part be contingent on the extent to which we are able to address one