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Intisar A. Rabb, *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law*, Cambridge University Press, 2015, 432 pp., \$115.00 US (pbk), ISBN 9781107080997.

In her extremely detailed book, Intisar Rabb traces the formation of the legal maxim of doubt in Islamic criminal law from the seventh until the eleventh century (CE) within both the Sunni and Shi'i legal traditions. She tells a story of how Muslim jurists placed limits upon limits such that whenever they faced divergence from the communal law texts, even inadvertently, doubt cautioned avoidance of punishment (38). The doubt legal maxim was deployed to rein in political rulers from enacting punishment, and to alleviate a deep sense of moral concern with false convictions. Primarily, these jurists aimed to construct a version of Islamic law in line with their ideals of divine legislative supremacy. By focusing on landmark cases during the formative period, Rabb's book deals with a complex history of Islamic law outside of its accustomed frame of legal practices. As Rabb rightly argues, to understand Islamic criminal law's past is to better grasp its present (9). Her research adds a crucial dimension to the study and practice of Islamic law, a divine legal tradition commonly thought to have little room for human discretion, particularly in the realm of criminal law.

While historians have focused more on the history of family law—currently the only realm of Islamic law in most parts of the Islamic world in the form of Personal Status Law—social media and the public press have paid more attention to modern criminal law where doubt has been cast aside in the Islamic world. Rabb's book is therefore very timely.

Rabb neatly organizes her book in four parts namely, institutional structures, morality and social context, legal-process concerns, and scope of interpretive authority—though all of four sections actually bleed into each other. Rabb demonstrates how Muslim jurists entrusted with the practical task of devising laws in real-life cases grappled with the idea that Islamic law posits God as a divine Lawgiver with absolute supremacy over the law. Most jurists regard Islamic law as a textualist legal tradition where God had already legislated a series of harsh criminal sanctions. Yet, Rabb shows that doubt was very much debated by Muslim jurists in criminal cases classified as *hudud*—fixed, nondiscretionary crimes and penalties that included four types of offenses. These offenses included illicit sexual relations, false accusations of illicit sexual relations, theft, and intoxication, as well as three other possible offenses such as apostasy, blasphemy, and highway robbery. Criminal cases such as *qisas* (retaliatory killing and personal injury) and *ta'zir* (discretionary penalties) are also touched upon in the book.

Rabb examines the role of super precedents such as the case of Ma'iz, a zealous new covert who confessed to committing adultery. Jurists felt compelled to address the case time and time again over several centuries because it was presided over by the Prophet himself who refused to accept his confession at first, but later did without punishing him. The Prophet's judgment provides a powerful argument for doubt as punishment avoidance, and featured prominently in major Sunni Hadith collections. The case was also controversial because it challenges the idea of God as supreme Lawgiver. Rabb reconstructs the debates surrounding the case in intricate detail using a breathtaking range of sources including judges' manuals, hadith reports, compilations of jurists' interpretations and opinions, historical chronicles, and biographical dictionaries.

Jurists continually strove to devise an economy of certainty even as the doubt maxim was repeatedly deployed. Indeed, Rabb's book shows that there was a perennial fear on the part of jurists that society was on the verge of losing legal certainty entirely. This fear led to the constant reanimation of foundational texts and maxims such as the doubt maxim. As they strove to arrive at certainty during their individual lifetimes, jurists entered into conversations with their predecessors and contemporaries, contributing to a creative dialogue regarding Islamic law. In this way, Rabb's book raises central questions about the role of foundational legal texts and maxims as well as our modern engagement with it. The specter of uncertainty in Islamic law continues to haunt jurists during the modern period. Hence, to put it another way, how can scholars and jurists make sense of texts and maxims that seemed to have been fixed for nearly a millennium? Above all, Rabb's excellent book offers insight into the potential benefits of a public life of ethical reasoning.

Although Rabb focuses mainly on Muslim jurists like most legal scholars of the premodern period, she closely traces the interplay between ruling authorities who enforced the law, state appointed judges who looked to jurists for definitions of law, and back to the rulers to enforce their decisions. Different from other works that focus on premodern law, Rabb's book combines approaches from both intellectual and social history, a major coup considering the paucity of sources in the Islamic world during the medieval period. By looking closely at specific historical contexts, she looks at how power was dispersed, and rebalanced among contending groups primarily political rulers and legal jurists in "pious opposition" to the former (131). Islamic criminal law remained an area of shared jurisdiction between the two groups throughout this period.

Although Rabb explicitly seeks to examine the concept of doubt in Islamic criminal law, her book achieves much more than that. Firstly, she essentially provides a model for scholars of Islamic law by underscoring the importance of the historical contexts of individual Muslim jurists, emphasizing the fact that they were subject to the specific political milieus and judicial structures which changed across time and space. Secondly, Rabb's research proves that the closing of the gates of *ijtihad* (independent legal methods of interpretation and reasoning by jurists based on the Qur'an, Sunna, and legal consensus) merely signaled the settling of Sunni legal schools (Hanbali, Hanafi, Shafi'i and Maliki). From the end of the ninth century onwards, Sunni Muslim jurists turned increasingly to authoritative modes of interpretation as they textualized legal maxims including the doubt legal maxim. This lent credence to the notion that they were applying God's law rather than human interpretive discretion, especially in criminal law, an area with narrower latitude for human discretion than family law and commercial law. After all, jurists were supposed to simply construe what God wants and not collaborate with Him in devising law.

Thirdly and most importantly, Rabb's book demonstrates that from the ninth to the eleventh century, the doubt canon was still in formation and in flux, which suggests that

other maxims and foundational texts could also have been as well. A major contribution of Rabb's work is her careful explication of the fact that even as Muslim jurists claimed to be textualists, they willingly deployed the doubt maxim to form a pragmatic method of interpretation that increased their institutional power over law by articulating ideals of moral values, legal processes, and interpretive authority by which they sought to define the legitimate use of force in Islamic criminal law (16).

Like other jurists, Muslim jurists constantly negotiated institutional relations and codes of moral conduct, mainly through textual interpretation. Her study of Muslim jurists lends itself to a study of comparative law and legal systems, not least because she deftly draws on constitutional and statutory interpretation theory in American law, English Common Law, and other European legal systems. In this way, the book is a major contribution to Comparative Legal Studies, a field which regards Islamic Law with trepidation at times due to different hermeneutics. Rabb pertinently points out that Muslim jurists, unlike their European counterparts, possessed wider scope to legitimately define law during the medieval period since the Islamic world lacked a centralized political and religious authority to define the law. The Church developed a moral theology that absolved most legal actors of the consequences of doubt, although in the battle between Church and Crown, the Crown ultimately won the jurisdictional power over criminal procedure. Muslim jurists continued to view doubt as a moral concern that directly bore upon their ability to define Islamic law, theology, and morality. In addition, in contrast to their Christian counterparts, they had to expand upon a procedure-laden, robust doctrine of doubt in the absence of both a moral theology to absolve doubt and a state that could assert absolute control over the authorization of punishment.

Rabb's book offers a top-down perspective from the point of view of the elite. This is most probably due to the lack of sources from the ground up. Unlike in the late medieval periods onwards, reports of legal cases were lacking during the formative period. Therefore, we have more of a sense of how members of the intellectual and legal elite debated with each other, rather than how ordinary people conceived of the law, jurists, and the courts as a whole. The limited availability of non-elite historical sources notwithstanding, Rabb's book offers an important contribution to the study of Islamic law. She has shown how the Muslim legal elite, even the eponymous Sunni jurists and their immediate successors, were individual human agents with a pragmatic bent, and as such their juridical thinking was shaped by complex and diverse goals such that they never arrived at a uniform definition of doubt. Neither did they limit themselves to a specific canon of "texts" in order to develop an increasingly sophisticated jurisprudence of doubt by the eleventh century.

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