

Book Review

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**Islamic Commercial Law – Contemporariness, Normativeness, and Competence.** Mohamed H. Reda. Leiden: Brill, 2018. 208 pages. Brill's Arab and Islamic Laws Series; Volume 12. ISBN 9789004344419.

Commercial activities have always kept their importance in the history of humanity from ancient times to the present, with its function that accelerates the social transformation beyond meeting the physical needs of people, and in parallel with the radical changes in the production and consumption styles, conventional types of commerce have been subjected to radical changes throughout ages. It should not be difficult to guess that the attitude of the propositions of Islam on commercial law in the face of these changes is subject to some criticism. It is an exploitation of gullible and poor Muslims, an outdated system, a mere imitation trial of the conventional banking system, infeasible, non-normative, and so on, these are some of the criticisms that have been cast towards the Islamic commercial system, mainly from the western fraternity and the proponents of the conventional banking system. Therefore, this book's relativity is in trying to assert the relevancy, competence, and feasibility of Islamic commercial law in the contemporary world of economics.

The book 'Islamic Commercial Law: Contemporariness, Normativeness, and Competence' is a 218-page study that was published in 2015 as a Ph.D. thesis from the University of Montreal. Later, in 2018 Koninklijke Brill NV, Leiden in The Netherlands, republished and copyrighted it. It provides insights into why Islamic commercial law has, for so long, been seen as unpredictable and arbitrary, as well as how it has developed into a modern, consistent, and credible body of law. It also looks at why some conventional western bankers have dismissed Islamic Commercial Law as having an overly simplistic or antiquated outdated theological foundation and challenges those

claims by evaluating the normative legal aspects of the law. This work analyses Islamic law's capabilities to structure new financial instruments and restructure traditional financial products to be more equitable.

The author takes a descriptive and comparative approach to answer the questions of normativeness, relativity, logic, and competency of the Islamic commercial paradigm. More significantly, he compares different commercial and financial derivatives of the conventional banking system with their counterparts or correlative Islamic financial elements to demonstrate the applicability and feasibility of Islamic commercial jurisprudence in our contemporary times. Given the vastness of contemporary commercial grounds and their generic structure, the author did not focus on any specific commercial paradigm, framework, or theory on which to base his arguments. Instead, his approach was more concerned with tackling general essential commercial elements while contrasting them with the core principles of the financial and commercial systems under Islamic discourses. To be more articulate and clear, he compares and contrasts various aspects of French Law since the 1420s to the present with different Islamic classical business transactions that the Quran and the teachings of the prophet have endorsed and with conformity with Islamic principles.

This book is of great importance to students who are more attracted to the field of comparative studies of Islamic jurisprudence and Conventional law; moreover, for researchers who want to be well equipped and versed with information regarding how different facets of financial derivatives under conventional economy correlated with similar elements under the Islamic paradigm can find this piece of work pretty seminal.

The author begins by shedding light on what Islamic Law is and how to make its justification in the contemporary world. He attempts the above by tackling some misconceptions of Islamic jurisprudence as a basis of Islamic Commercial Law. Therefore, at first glance, the discussions on sharia law, its sources, and elaborations of Islamic commercial laws that govern financial transactions are prevalent in this piece of literature. He proceeds by discussing some historical materials concerned with the Islamic commercial industry, when the empire of Islam stretched from Turkestan to the Atlantic Ocean and from the Mediterranean to India, Malaysia, and Indonesia. He argued that there had been some rise and fall in the industry of Islamic commerce. However, modern-day development in the Islamic commercial arena has been more profound in Asia since 1940; as a case scenario, in 1950, Muslim bankers formed credit-free enterprises in Pakistan. The Muslim savings cooperative was established in Malaysia in 1963, and the Egyptian savings project started in 1963, then in 1971 integrated into the

Egyptian Nasser Bank. Sophisticated modern funds have been introduced, and there have been recent investments in the Islamic Sukuk and other mutual funds, which expected global financial assets to have reached 3.4 USD trillion in 2018, he maintained. The author then discusses some of the most relevant conventional commercial principles to Islamic finance principles like freedom of contract, good faith, trade usage, and fair dealing, among others, while throwing light on contemporary challenges of Islamic finance, more especially those that were posed by the western professional bankers.

In line with the above narrative, the book attempts to find a viable solution to whether Islamic finance is normative and conforms to moral laws or is just a primitive and simple moral code of conduct. It spends the rest of the time compiling this piece of literature attempting to answer this query and elaborating on the relativity of Islamic Law in a contemporary financial setting. In one of the scenarios, the author argues that the normativeness of Islamic jurisprudence is similar to Jewish jurisprudence. He asserts, "Similarly, a Muslim who follows Islamic Law and living in a Jewish state will be complying with coercive positive state laws, their substance and ultimate normativeness stemming from Jewish law; in this case, Jewish law becomes the authoritative and normative law, and the Muslim resident's behavior becomes its subject regardless of his beliefs" (p. 81). The book also makes a lot of legal comparisons between Islamic jurisprudence, particularly the laws related to financial transactions, with France's legal system throughout the ages. He discusses the illegality of usury and the correlations between the Islamic and French legal systems that date back to 1423, asserting that during the period when canonical laws were normative and supported by state coercion, the goals, and values of Islamic Law precepts were nearly identical in French Law. He asserts that the original purposes and principles behind the relevant civil code articles are similar to Islamic Law precepts in core and origin, despite revisions to the relevant articles in the French Civil Code over many years due to external political and economic forces.

The author spends much of the time elaborating on different kinds of Islamic commercial transactions from the classical era of the prophet to our contemporary times. For many of the instances, his approach is picking an element in the conventional economy and correlating it with its counterpart from the Islamic economic paradigm shedding some light on the possible similarities and differences in the conditions, attributes, and frameworks of the two elements of commerce. However, pointing out the differences between the two systems does not adequately convince in affirming the relativity and the normativeness of Islamic Commercial Law, especially given the controversies surrounding Islamic commercial precepts within different Islamic schools of thought. Therefore, these differences would be more concise and elaborate if they were to be

studied under a specific Islamic paradigm, considering that some Islamic schools of thought regard bank interest as prohibited. In contrast, other schools of thought have ruled its permissibility to the pro-pendant view. We can presume, however, that the book is a rich reference to different Islamic aspects of commerce like Murabaha, Salam, Mudaraba, and others. Nonetheless, the book needed to tackle adequately and convincingly some of the queries raised against Islamic Commercial Law, for example, whether Islamic jurisprudence has the specific competence to manage contemporary multifaceted financial and commercial transactions. While trying to answer a question such as this, the author argued that the claim that the Islamic commercial system is backward and of the dark ages, as maintained by some western bankers in dismissing the Islamic financial system, is invalid. Instead, as he claims, the opposite is true, asserting that the conventional banking system still has much to learn from the Islamic and commercial systems. First, however, the writer needs to give concrete evidence of what is missing in the conventional commercial system that conventional bankers must learn from the Islamic commercial system with feasibility and why there would be such a need to learn from it.

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