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**BOOK REVIEW: WOMEN AND SHARI'A LAW: THE
IMPACT OF LEGAL PLURALISM IN THE UK BY
ELHAM MANEA, I.B.TAURIS & CO LTD, 2016**

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Motto: "I am muslim! I have the right to criticize my religion!" - Elham Manea

The most recent book of Elham Manea is a critique of a paradigm that demands the introduction of Islamic law into Western legal systems as a mean of "accommodation" for Muslim minorities. In response to media controversies and public debates on legal pluralism and multiculturalism, Manea debates on what she identifies as being the increasing trend of treating Muslims as "homogeneous groups" in Western academic discourse rather than as individuals with genuine voices. Based on the knowledge of the situation of women in the Middle East and Islamic countries, she is conducting a "first-hand" analysis of Shari'a Islamic councils and Muslim arbitration tribunals from various British cities. Presenting the result of meetings with representative imams, as well as interviews with experts in the field of extremism, advocates and civil society activists and women's rights groups, Manea offers a passionate critique of legal pluralism, detailing the experiences of women in Muslim communities. Perhaps the author's most important contribution is the penetration into the private space of migrant Muslim women who talk about oppression in their community and the labyrinth of an attempt to access the most basic rights of a citizen.

The most important topics of the book are: the real experience of legal pluralism in the UK and "non-Western countries" and its negative consequences; the type of Islamic law applied through the "conflict resolution" method, which runs against the concepts of gender equality and human rights; the social context of "closed" communities where this law is enforced - where both young women and men are subjected to suffocating social control; the role played by political Islam in promoting Islamic law in non-Islamic societies.

The result is a book that highlights the negative consequences of introducing "special laws" for "specific groups". In fact, the book starts from a direct result of a media controversy in 2014-2015, in Switzerland. There, a Sunday newspaper, NZZ am Sonntag, discussed the implications of the Swiss social anthropology professor, Christian Giordano, on Shari'a in Switzerland, under the title "Sharia Courts for Switzerland: Professor Freiburg Calls for Special Laws for Muslims and Other Groups" (p.1). Manea addresses Giordano's suggestion to introduce the rules of legal pluralism into Switzerland and, along with it, the Islamic law as a resolution for the problems of the Muslim minority (p.231). Giordano is, for Manea, an example of an essentialist anthropologist (pp.9-10). In the opinion of Manea, Giordano shares "people along

cultural, religious and ethnic lines, putting them out and placing them in parallel legal enclaves,” within a framework that perceives rights from a group perspective - “the group has rights within it” (p.35). Because the cultural distance is too big, Giordano does not expect Muslims to respect the Swiss legal tradition. “On the other hand, he insists that universal human rights should not be violated when Islamic law is applied to civil matters. This double demand is difficult to fulfill” - Manea suggests (p.23). Is this practically possible? This is the question that Manea raises in her book: it examines whether legal pluralism can be sustained in a society that guarantees through all social and political mechanisms, human rights, showing the consequences of this academic legal discourse upon the everyday life of women and children. Recalling the old academic dispute - *Is multiculturalism bad for women?* by S. Moller Okin, her thesis is that women and children pay a heavy and painful price for such benevolent suggestions. An educated Muslim woman will be able to consider her rights, because if she does not want Islamic arbitration she can simply go to the civil justice system with this option. But imagine that a young woman is brought from her village to marry a cousin from a Western country - is the question that Manea addresses as an invitation to reflectivity. This woman will not be able to negotiate or use her agency to gain her rights (p.134). Moreover, this would involve awareness of personal autonomy, a complex concept in the sense of the Islamic world, which is, for some women belonging to Islamic world, nonexistent.

Manea argues that a system is not right if it allows the most privileged to exercise their rights while perpetuating discrimination of the less privileged. It will not guarantee respect for human rights under these circumstances. In Manea’s opinion, this is the main problem with the suggestion of introducing legal pluralism in the Western context (p.9). For the author, legal pluralism and human rights are not so easily reconcilable. She responds to Giordano’s suggestion on several different levels. Giordano argues that Muslims cannot integrate because they are accustomed to legal systems from outside the Swiss system (p.5). This contradicts the fact, says Manea, that most Muslim immigrants from Switzerland come from Turkey and the countries of former Yugoslavia. Turkey is a secular country¹¹, and Shari’a is not part of its legal system. In fact, the Turkish family law is based on Swiss family law. In addition, Bosnia hasn’t had a Shari’a court in 1946 when it was repealed by law. And Albania applies a mix of civil and common law that leaves no room for Islamic law. ”In countries like Syria, Lebanon and Egypt, each community uses its own religious laws in family affairs but (...) in fact, the Arab Human Development Report (AHDR) – “Towards the growth of the Arab woman”, described the consequences of applying these religious laws as a form of “legally sanctioned discrimination” (p.6). Those who defend the introduction of Islamic law into the Western legal context often ignore the critical discourse of Muslim academics and activists, and consider Islamic and Shari’a law as something immutably given, just as Islam is. However, Muslims are not a homogeneous group,

1 At the time when the book was written, secularism was still fighting for survival in Turkey. After the book’s appearance, the Erdogan regime succeeded in fully reviewing the Criminal Code (2017), criminalizing adultery and giving priority to the concept of mitigating circumstances for the husband’s husband “deceived” - motivating his honor to be affected. Thus, for the first time after the republican construction of Turkey, we have introduced the concept of Islamic sharia into the legal system.

Islam as a religion is not a monolith. Some Islamic organizations have members who support the ideology of political Islam, others criticize these tendencies. Adherents of political Islam claim in an authoritarian manner to be the only representative and sole voice of “Muslim communities” and claim to be the only experts on their “needs”. Until the terrorist attack of July 7, 2005, British policymakers of cultural pluralism have facilitated and reinforced this statement. As Manea argues - “It is not a coincidence that Islamist organizations in the UK rely on the arguments of British politics regarding multiculturalism. Eradicate Islamic law in family affairs to curb extremism!” says Manea (p.49). Since women do not have a consistent contribution to education about the internal affairs of Muslim families, conservative-fundamentalist voices will be prioritized. The author suggests that the “romantic perception” of other cultures, which seems to be dominant in the paradigm of the essentialists, leads them to the fear that they may offend others and may be accused of imposing their own laws and values on them. Their perspective is that we cannot force our own Western values upon immigrants from distant cultures. How should we fully respect human rights - which implies equality between men and women - in a Shari’a court? Essentialists claim that Islamic law should be introduced into Western legal systems in the name of multiculturalism. In response to this request, Manea offers both a critique of the essentialist argumentation and a defense of the universality of human rights. She highlights a crucial point: Swiss law is exemplary in respecting human rights and women’s rights and gender justice. It has a law guaranteeing women’s rights in family affairs and is based on universal human rights and on the implementation of the main UN human rights conventions. It took a long time for Switzerland to reach this point: women were given the right to vote in 1971, and family law was changed only in 1988. But this universalism of human rights is not the case with Islamic law. Islamic law is not in line with international human rights standards and, too often, its judicial application (decisions) violates these rights. The development of an intelligent and cosmopolitan understanding between religious communities in Europe has been compromised by a range of legal and political responses to terrorism, argues Manea. While the debate about the burqa^[2] has clearly indicated the problems relating to Muslim cultural differences, Manea argue that legal pluralism and in particular the question of Shari’a tribunals may prove to be a more decisive test of Western multiculturalism. Manea therefore speaks of two types of very different laws: one that guarantees and protects human rights and one that does not, or even disputes, these concepts of equality between men and women. Supporters of legal pluralism call for Switzerland to introduce a parallel legal system that actually violates women’s rights and then to use it to legitimize systematic discrimination against women and children of different faiths. To exemplify, Manea brings to discussion the British case that has all the components of the essentialist paradigm - a multicultural context that practices cultural relativism and provides for group rights, all intertwined - professed as “penitence of the white man” (allusion to the colonialist period) to justify policies that treat citizens differently. An essential consequence of introducing legal pluralism and Islamic law into Western legal systems will be layered citizenship, including two types of women: Western or

2 An enveloping outer garment worn by women in some Islamic traditions to cover themselves in public, which covers the body and the face.

Western women who can enjoy their rights based on state laws and immigrant women who cannot. Here is an example: The UK system has in fact created these two types of citizens: a group enjoys equality before the law, and the other does not, due to its religious identity. Those in the second group suffer from double discrimination, she believes. However, the problem with religious courts lies elsewhere, namely with the fragmentation of social life and the erosion of citizenship - is a central observation of the book. This stratification of two type of citizenship will strengthen the walls surrounding closed parallel societies - the Muslim communities that end up in isolation. In addition, the system *de facto* legitimizes polygamous marriages and facilitates marriage and forced marriage. Of the utmost importance in combating extremism is the cohesion and unity of society as a whole, Manea considers. Islamists are encouraged in strengthening their social control over closed communities through the policies that continue separating minority groups from wider society.

Manea argues that special treatments for immigrant groups and the introduction of religious laws will undermine the universality and protection awarded by international human rights standards. Questioning whether human rights are universally or culturally determined, the author relies on a consequential approach, invoking the **human face** of the suffering that arises when human rights are violated individually or in society as a whole. An approach based on consequences on human rights and dignity (p.228) reconfirms a **moral** point of view: the most important is to consider how one's actions can affect others. The effects of actions, not their intentions, are the most relevant guide marks in measuring the moral value of an action. Such a view can highlight the serious consequences of human rights violations. On an individual level, what kind of injury is done to the girl or woman by applying a parallel legal system implying Shari'a law? And at social level, what are the general consequences of groups segregation and of the creation of what Amartya Sen called "monocultural pluralism" (quoted in Manea, p.139) of closed communities? Manea concludes with six policy recommendations to the British Government: (1) mandatory civil marriage before any religious marriage; (2) registering all Islamic marriages in order to expose possible polygamous marriages; (3) punishing polygamous marriages; (4) obligation to Islamic divorce right after civilian divorce, which is guaranteed by the juridical British system; (5) a national information campaign meant to make women from closed communities aware of their civil rights; and (6) the abolition of parallel religious legal systems in the UK and the equal treatment of citizens and migrants before the law (pp.238-239).

In the pursuit of Western lawyers, Manea explains the practice of the state in many Islamic countries (Egypt, Tunisia, Lebanon, Turkey) whereby the state negotiates with the religious authorities, and, eventually, recognizes a civil divorce (the Tunisian example is long explained and recommended to the author and as a critic of Western omniscience). This practice can be accepted in a secular country like Great

Britain only when the religious community agrees with it. It cannot be forced by the secular state because it would harm the fundamental right of religious freedom. Manea's recommendations do not aim at the restraining of religious identities of minorities, but suggest treating them as equal individuals before the law instead of submitting them to a treatment based on group identity. Further, she focuses on the attention that needs to be paid to the political and social context of migrant communities and to the special clauses and demands that are specifically presented as religious requirements and to the consultation and confrontation of political messages in schools (*madrassa*) and mosques (p.249).

In Manea's opinion, essentialists like Giordano "play in the hands of Islamists and become supporters of their political agenda" (p.240). They build a Muslim minority in which they legitimize systematic discrimination against women, children, LGBT community or atheists. "Such discrimination will certainly not help people in the Islamic migrant communities to integrate successfully. In fact, it will only censure social control of Islamists on closed communities" (p.241).

In her study, Manea offers a secular feminist response to the fundamental question of modern Western societies on the integration of Muslims. In this respect, she supports the rights of women in Islam through a clear theoretical argument with a powerful narrative element. The book is of value not only to political scientists, but also to a broader audience interested in Islam related matters, religious rights, human rights, and the status of women and children in religious minority communities. Religious and legal pluralism will be one of the greatest challenges for Western societies in the coming decades, the author considers.