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Book Review

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BOOK REVIEW

Middle East Legal Systems by Sayed Hassan Amin. Glasgow: Royston Limited, 1985. Pp. 434.

Over the past several years, Dr. Sayed Hassan Amin, an international lawyer practicing in England, has produced a number of books on Middle Eastern law. In those books he has addressed topics ranging from revivalist Islamic movements to narrower issues such as breach of contract in Mideast business. Dr. Amin's latest effort, *Middle East Legal Systems*, is an in-depth study of fifteen Islamic-law nations that draws from his experience as an advocate, arbiter, legal advisor, and expert witness for several companies associated with Middle Eastern enterprises. Although the topic of Dr. Amin's latest work is otherwise comparable to his previous forays into this still-emerging field of law, *Middle Eastern Legal Systems* lacks sufficient thought-provoking analysis.

The book divides the legal systems of each nation covered into seven segments, including legal history, sources of law, legal developments, the judiciary, and the legal profession. Uniformly, the book covers the general backgrounds of the respective countries and discusses, among other items, the geographical dimensions, economic development plans, and foreign trade deficits of each country. All of these concepts influence the respective legislative histories that Dr. Amin recounts. Dr. Amin's primary goal is to illuminate the civil, criminal, and religious laws governing the nations of Afghanistan, Bahrain, Iran, Iraq, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, the Sudan, Syria, Turkey, United Arab Emirates, North Yemen and South Yemen. Although touching only lightly on the function of the executive branch in these systems, Dr. Amin offers a no-holds-barred approach to judicial and legislative law-making in the nations he has selected to analyze.

Iran and Iraq command a majority of the book's attention, and for good reason. These neighboring nations epitomize the divergent schools of Islamic thought that form the basic background of Middle Eastern law. Islam, as Dr. Amin explains, "is essentially a religion of laws regulating and directing every aspect of human experience." (p. 102). Both Iran and Iraq reflect mixed legal systems. The Majlis serves Iran as Congress serves the United States, but can be arbitrarily overruled by a

twelve-man Council of Guardians, which is empowered to void any laws violating constitutional or Islamic laws. Meanwhile, the power of Iran's leader, Ayatollah Khomeini, remains supreme. In contrast, Iraq's current political system is based on both the Sunni and Shi'a schools of law. No other Islamic nation is so constituted. Moreover, the Iraqi ruling coalition, the Ba'th Socialist Party, has moved toward a more secular platform. In 1977, the Ba'th introduced the equivalent of a congressional bill aimed to "serve the revolutionary economic development through various state organs but at the same time, 'formulate the beginnings of a transition to socialism.'" (p. 174). Despite Dr. Amin's otherwise extensive overview of the Iraqi legal system, he neglects to examine further this apparently significant piece of legislation. Dr. Amin offers no insight into the 1977 bill's fate, and therefore the reader is not informed of the implications, if any, arising from it.

Dr. Amin neglects to examine several other issues raised by his book. He fails to mention the role of administrative or regulatory agencies, if any, in Islamic law nations. Very surprisingly, Dr. Amin omits any discussion of the effect of Judaism in the Middle East. If, as he implies throughout his book, Judaism resembles Islam in that both are based on laws tailored to govern daily living, then the exclusion of Israel necessarily detracts from the completeness of *Middle East Legal Systems*.

Most clearly absent is how, if at all, the Western influence has interacted with Islamic principles. Many of the nations Dr. Amin discusses were at some point under Anglo-American, British or French rule. Accordingly, each legal system was first structured around that of the controlling country. Over time, as Western influence waned, the Western-based systems were diluted or replaced by systems imported from surrounding nations like Egypt, Libya and Jordan, or by traditional laws practiced by tribes, particularly those in the ancient land of Arabia. Dr. Amin even acknowledges in the introduction to his book that: "Western influence varies . . . from one country to another [and] traditional Islamic Law is no longer universally supreme throughout the Middle East. [A]lthough [it] is recognized as one of the main sources of law in [most] Muslim countries, the . . . systems of law . . . are nation-bound."

Dr. Amin's dry, textbook approach to Middle Eastern law presents facts but does not analyze them. At one point, Dr. Amin points out that prior to Qatar's Amended Provisional Constitution of 1972, no division existed between the legislative and judicial powers of the ruler. Dr. Amin later states, however, that Qatar's rulers have unlimited judicial discretion despite a constitutional provision making judges free of any interference. Other examples of Dr. Amin's solid assembly of facts, but poor supporting analysis are: how the Sudan came to embrace Islamic law after much debate over what law should prevail; how, after Syria's judicial system became independent, no distinction separated civil from

criminal law despite such separation in other nations; and why, if Iran's post-revolution constitution makes inviolable man's self-determination, that nation can justify a law allowing a victim or his next of kin to kill a suspected assailant?

Despite the shallow analysis, *Middle East Legal Systems* offers a useful compendium of items shared by, and unique to, each nation. Most of the systems examined are based on written constitutions. Most systems recognize and effectively utilize *stare decisis*, except Iraq, which, interestingly, deems decided cases to be an informal source of law. Kuwait's legal tradition stems from maritime law because of a trading tradition established in the nineteenth century. Aside from Egypt, Iraq, Syria and Libya, insurance law is relatively underdeveloped, and the reader must seek out an earlier book by Dr. Amin to understand more fully why contract insurance is so rare in a part of the world where big business has taken root.¹

Most of the nations discussed in *Middle East Legal Systems* possess legal systems whose current structures have existed only since World War II. Changes in the laws in these countries evolve more quickly than is appreciated in the West. The rapidly changing nature of the Middle East might detract from the book's timeliness, but should not erode its practicability as a veritable encyclopedia on the law of Muslim-dominated nations. Regardless of its shortcomings, *Middle East Legal Systems* presents, in outline form, an inviting approach to understanding the growth of Middle Eastern law.

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¹ S. AMIN, *ISLAMIC LAW IN THE CONTEMPORARY WORLD* (1985).

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