

*Divorce in Java: A Study of the Dissolution of Marriage among Javanese Muslims.* By Hisako Nakamura. Yogyakarta: Gadjah Mada University Press, 1983. Pp. xxiii, 145.

Islamic divorce law, which bestows a man the right to repudiate the marriage claims he has over his wife, has been known to arouse misgivings among Western observers about Islam's claim to be a religion capable of promoting egalitarianism among mankind. The law can easily lead observers to conclude that the religion discriminates against women and that women actually occupy a subordinate social position *vis-à-vis* men in the Islamic *ummah*. Individual Muslims have attempted to explain away the apparent discrepancy between Islam's message of moral equality and the social organization of many Islamic societies, which displays ongoing processes of social differentiation and subsequent stratification of individuals, by resorting to the religion's generalized and abstract philosophical teachings. The fact, however, remains that the lack of fresh empirical data on the actual implementation of Islamic marriage and divorce law can only intensify the prejudice and prevailing notions held by many observers about the unequal rights of Muslim men and women. Although Islam has recently become an object of increasing interest for both Westerners and non-Westerners alike, still a scholarly work which can offer much-needed information on the institutionalization of certain universal and egalitarian principles associated with Islamic philosophy, ethical systems, and law will have made an important contribution to more general attempts to rectify the misconception held by these observers with regard to the religion.

Hisako Nakamura's book, originally submitted as a Master's thesis at the Australian National University, has been able to achieve this. In this short but interesting book, Nakamura shows that Islamic law regulates the dissolution of marriages among Javanese Muslims in Central Java. She dismisses as totally incorrect the popular view that in Islam only men have the right to divorce their spouses. No doubt Muslim husbands possess the right to pronounce the *talak* but the right to initiate divorce is actually vested in both spouses. Nakamura emphasizes the need to make the subtle distinction between these two rights so as to avoid misinterpreting Islamic divorce law. The data she gathered in the village of Kotagede, Yogyakarta reveal that women who wish to end their

marriages can exercise their right by invoking provisions in the *Shari'a* for *talik-talak*, *khuluk*, and *fasakh* divorces and by referral to the local semi-official and official religious authority to effect divorce. Equally important is the finding that Javanese men cannot arbitrarily dissolve their marriages without first securing the sanction of local religious officials.

The author makes the above assertions after carefully analysing official documents, records in marriage and divorce registers, judicial decisions of the local Islamic court, and the results of interviews which she had with various informants during nineteen months of field-work.

Chapter 1 of the book deals with conceptual issues that the author feels need to be considered. While this chapter provides something of a framework for the analysis of divorce, it actually represents, at best, a somewhat unsatisfactory attempt at rethinking the interrelationship of three key elements in Islamic law, that is, *syari'at*, *hukum*, and *fiqh*. *Syari'at* is seen perhaps a little simplistically as the "clear path to be followed" by all Muslims, *hukum* as "judgement and legal decisions", while *fiqh* as "the science of *hukum*". Nevertheless, for the author, an understanding of the relationship between these elements in these terms enables researchers to differentiate those legal principles that are enduring in nature and unique to Islam from those that come into existence as a result of human intervention. Accordingly, researchers will be able to avoid the pitfall of describing Islamic law in terms of its "apparent contradictions", an exercise that the author implies is often indulged in by Western scholars.

Chapter 2 is a brief description of the research area. It is intended to provide an ethnographic profile of the community studied. It would have been more useful if the author had included in this chapter vital information on such matters as the kinship system, patterns of leadership, socialization, and gender relations against which a discussion of divorce would have been more meaningful.

Chapter 3 deals with Islamic divorce law as it has been accepted and administered in Kotagede. It is shown that besides death, which automatically alters the status of a spouse, a married woman can seek divorce by three means. Firstly, by proving in the court of law that her husband has failed to fulfil the agreements he made during marriage including his failure to provide for her maintenance for a period of three

months or more, in which case she would be granted the *talik-talak* divorce. Secondly, by relying on the recommendation of marriage arbitrators or *hakam* (who are normally called to settle prolonged marital discord) that her husband pronounce the *talak* with or without him receiving any compensation from her. Finally, by securing an official decree from the judge to nullify the marriage on the grounds of illness, impotence, desertion, or insolvency on the part of her husband. On the whole, the organization of the chapter could have been improved and more facts could have been added to make it more substantial. Nakamura appears to have relied largely on Mahmud Junus' *Hukum Perkahwinan dalam Islam*, which is hardly considered an authoritative text on Islam and Islamic jurisprudence.

In Chapter 4 the author outlines the functions as well as the formal relationships between three constituent units of the religious bureaucracy in Kotagede that are instrumental in the implementation of Islamic divorce law. They are the Office of Religious Affairs, the Islamic Court, and the Body for Marriage Counselling and Divorce Settlements. The author notes that counselling forms an integral part of the divorce procedure regardless of whether the party seeking for divorce is the husband or the wife. The predominance of women counsellors between the ages of forty and fifty who belong to the local religious reform organization, AISYIYAH, implies that women have been accepted as religious leaders in the community studied by the author and that they are as actively involved in making decisions in matters pertaining to divorce as are their male counterparts.

The author's basic argument that Muslim women also have a right to divorce their husbands is further expanded in Chapter 5. Apart from enumerating the reasons for divorce, the chapter provides statistical data to justify her claim that the actual number of women who petition for and are subsequently granted divorce is almost the same as men. This is quite a straightforward chapter incorporating mainly statistical findings on the various types of divorce. However, no attempt has been made to analyse the significance of these statistics and to link them with the subtleties of the process of divorce settlements, thus highlighting the sociological importance of the phenomenon discussed.

Chapter 6 analyses several marriage counselling sessions that the author recorded. Two central values, "happiness" and "sincerity", are

found to dominate the counselling sessions and influence the counsellors' decisions whether to suggest to the estranged couples that they should be reconciled or to consider going their separate ways if such action is in their best interests. It is also observed that marital obligations and the right to divorce are intimately related to one another. This is a particularly good chapter which records actual marital disputes. It would have been better, however, if the author had also indicated in what way the counselling sessions may be said to reflect the influence of Islamic jurisprudence.

In the final chapter, Nakamura takes to task well-known scholars such as Prins, Lev, and Hildred Geertz, who have undertaken research or commented on divorce law in Indonesia for what she considers to be their "misunderstanding of Islamic law". According to the author, these writers seem to believe that the power and right to divorce in Islam are vested in men. Of the three scholars, Hildred Geertz receives the brunt of Nakamura's criticisms for her apparently simplistic and hasty conclusions about divorce procedures among the Javanese. The author's criticisms help point out some of the factual errors in the work of Geertz and the others and are as such commendable. However, in her effort to find fault with these distinguished Western scholars, the author, on pages 108 and 109, also criticizes their use of such words and phrases as "legal action" and "*taklek*", which in turn suggests possible shortcomings in her familiarity with English and Javanese as well as her conceptualization of the relationship between law and administration.

Notwithstanding the above criticisms, the book meets its objective, which is basically to rectify a prevailing view about the male-biased nature of Islamic divorce law. The book is nevertheless worth reading and highlights some interesting aspects of the extension and administration of Islamic law in Central Java.

SHARIFAH ZALEHA SYED HASSAN