

Book Review

Sharia: Its Substance and Significance

By Muhammad Abdur-Rahim Dalvi. 1994, 280 pp.

This book is a good analysis of the Shāfi'ī school of Islamic law, and the author is to be commended for his successful presentation of its salient features to the English-reading public. He has divided his book into an introduction to the school, the law of marriage and divorce, the law of property and related matters, the law of evidence and procedural matters, and the law of crimes and criminal procedure. In addition to these major topics, Dalvi deals with various lesser known features, such as:

1. On the issue of marriage and divorce, Dalvi points out: "By stressing the need to establish the intention behind divorce, making such causes as inability to maintain a cause for the wife to ask for a divorce, making redundant divorce pronouncement under the influence of drink, indicating the necessity to know one another prior to the marriage, choosing of witnesses agreeable to the wife, stressing the responsibility of the husband to provide for maintenance to the divorced wife . . . all go to show how serious concern was in the mind of Imām Shāfi'ī for the protection of the rights of the women." (p. 240)

2. "The Shāfi'ī School holds that it is forbidden to [hold] court-sittings in a mosque" (p. 154). The author states that "the mosque being the 'House of God,' it was felt that if by any chance a judge delivered a judgment which has resulted in any injustice unknowingly too, it would not be behoving with God's desire to meet justice. Hence the mosque was not made a house of law." (p. 154)

3. "In the Qur'anic words he (i.e., Shāfi'ī) truly made man a vice-regent of God on earth as has been stated earlier. And at the same time he reconciled the two divergent forces in law: those belonging to 'the party of Traditions' and those belonging to 'the party of reasoning' through this principle. Thus Imām Shāfi'ī laid down the process of democracy as early as the eighth century when hardly the modern ideas of a democratic way of life were known. The use of consensus in the absence of further divine revelation and the Prophet being no more there to guide, the consensus was that the most logical apparatus to be put into use. Imām Shāfi'ī spent no time to realise its importance in these conditions and to keep the people apprised of their responsibility towards one another to keep them well-knit. He perfected the doctrine of '*Ijmā'*.'" (p. 230)

4. "Just earlier it has been stated that Imām Shāfi'ī had toned down this reasoning by analogy. Thereby he has in fact not only brought this kind of reasoning into a disciplined process of thinking but in effect he has made independent reasoning analogous to analogy itself. Thus he has brought to the Muslim world the double advantage of possessing a disciplined reasoning and at the same time making available a foolproof reasoning. This is indeed a significant contribution of the Shāfi'ī school." (pp. 228-29)

The author states in the conclusion: "Some section of the Muslim community requires to gather courage under the present day circumstances to stand up and take the lead in modifications of Islamic Law, Sharia, where necessary. The findings of the study is that the Shāfi'ī school could do this and is eminently fitted to take this lead. For Imām Shāfi'ī had been a man of compromising nature and his efforts in laying down the principles of the Islamic jurisprudence clearly indicate this. Further he has shown the way of disciplined thinking in several ways, e.g., analytical thinking, by way of consensus where he prompted every member of the community to partici-

pate into the law-framing and execution of legal process by making offer of evidence as a responsibility of the community” (p. 259).

The title of the book is probably too broad. It deals specifically with the Shāfi‘ī school, and hence an appropriate title would be more expressive and accurate. As seen from the contents, the book deals with the substance and significance of the Shāfi‘ī worldview. Readers should not view it as an attempt to undermine other schools of law or as an attempt to reject the other views of Islamic jurisprudence. In fact, it is a scholarly analysis of present-day society, its dilemmas and its problems, for which the author suggests certain reasonable remedies from the Shāfi‘ī worldview.

The author’s work is a product of his painstaking effort. He has done the job very well and has highlighted the contributions of Imām Shāfi‘ī, which have remained concealed in the dormitories of a few academics or with “scholars” who kept it to themselves, for all those who had no access to primary materials or who are new to the study and research in the field of Islamic law and others. He has opened up another path for scholars to produce similar research in many related and relevant fields that as yet remain untouched and unexplored by the present generation.

For one interested in the Shāfi‘ī approach to philosophical issues or religious and theological matters, this book is not very useful, for Dalvi has limited it to social interaction (duties and responsibilities between people) and does not discuss matters relating to interaction with God (duties and responsibilities to God). While Imām Shāfi‘ī dealt with such concerns, one has to search elsewhere for this information. This book, however, deserves a place in all Islamic and law libraries (it provides a frame of reference in comparative and international law) and is a must for students and scholars in the fields of law, sociology, and allied areas.

Mohamed Taher
American Studies Research Centre
Hyderabad, India