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# **Islamic Law and Society in Southeast Asia**

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## *Islamic Law and Society in Southeast Asia*

Melissa Crouch\*

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Of more than 1.57 billion Muslims around the world today, over 60 percent live in Asia.<sup>1</sup> The region of Southeast Asia is particularly important to the Muslim world because it is home to the largest Muslim-majority country, Indonesia. Yet the study of Islamic law is often associated with the study of the Middle East. Scholars of Islamic law in Southeast Asia, however, have long advocated for the importance of Southeast Asia and its pluralist legal history to the field of Islamic law.

Like the majority of the Islamic world, most Muslims in Southeast Asia are Sunni Muslims, although there are small Shia communities.<sup>2</sup> Despite the large number of Muslims in Southeast Asia, the only country in the region that unambiguously recognises Islam as the religion of the state is Brunei. The relationship between Islam and the state, and the extent to which Islamic law is reflected in state structures and authorities in the region has been a central issue of scholarly inquiry.

It has long been recognised that the legal traditions of Southeast Asia are inherently plural and that Islamic law co-exists with state law and customary law, in some places formally recognised by the state, but in others not. In terms of the state legal systems, Myanmar, Singapore, Malaysia and Brunei share a similar common law heritage due to the British colonial legacy. The influence of the civil law in other countries has been more diverse -

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<sup>1</sup> Pew Research Center's Forum on Religion & Public Life, *Mapping the Global Muslim Population: A Report on the Size and Distribution of the World's Muslim Population*, (2009) [www.pewforum.org](http://www.pewforum.org)

<sup>2</sup> Chiara Formici and Michael Feener (eds) *Shi'ism in South East Asia: Alid Piety and Sectarian Constructions* (London: I.B. Tauris, 2014).

Indonesia's legal system was inherited from Dutch colonial authorities; the Philippines system was influenced by the Spanish but also has traces of American common law; and Thailand<sup>3</sup> was never colonised, strictly speaking. Across the common law-civil law divide, the state legal systems of all of these countries recognise some aspects of customary law, and this at times overlaps with Islamic law.

This chapter seeks to provide an introduction to the ways Islam is recognised by the state in Southeast Asia, and the particular scholarly debates that have arisen in response to these Islam-state configurations. I begin by highlighting the work of a pioneer of the field of comparative law in Southeast Asia, Professor MB Hooker. His work demonstrates the preoccupation of early scholarship with documenting the sophisticated systems of Islamic law, and therefore pushing scholars to look beyond the state, as well as confronting the false assumption that Western law was more developed than Islamic law. I then turn to examine how scholars have addressed the regulation and institutionalisation of Islam in Malaysia, Indonesia, Brunei and Singapore.<sup>4</sup> This is contrasted with the focus on explaining conflict and violence in Muslim-minority contexts, particularly in the Southern Philippines and Southern Thailand, while Muslim minorities of Myanmar (Burma) have largely been overlooked by scholars.<sup>5</sup> This review demonstrates the rich body of empirical literature in this area, its potential for comparative legal inquiries, and the emerging scholarship analysing the establishment, role and function of Islamic institutions and authorities. It concludes with the ongoing challenge to advocate for the importance of the study and contribution of Islamic law in Southeast Asia to the broader field of Islamic legal studies.

## **2. Pioneers of the Study of Islamic Law in Southeast Asia**

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<sup>3</sup> Formerly known as Siam.

<sup>4</sup> In Singapore, Malay Muslims constitute a significant minority.

<sup>5</sup> In this chapter, I do not cover Cambodia, Laos, Vietnam and Timor-Leste, as these jurisdictions have very small Muslim populations and little has been written on the practise of Islamic law. A brief overview of Islam in Cambodia and Vietnam can be found in Jacob Ramsay, 'Cambodia and Vietnam' in Greg Fealy and Sally White (eds) *Voices of Islam in Southeast Asia: A Sourcebook* (Singapore: ISEAS, 2006) pp 31-37.

The academic field of Islamic law in Southeast Asia is indebted to the pioneering work and historiography of Professor MB Hooker.<sup>6</sup> Hooker has not only published broad ranging volumes on the legal traditions of Southeast Asia that include analysis of Islamic law,<sup>7</sup> but he has specifically examined the origins, sources, and development of Islamic law in Southeast Asia.<sup>8</sup> His early work sheds light on the gradual adoption and development of Islamic law in Southeast Asia. His research pays tribute to the inherent diversity in Islamic legal practise in the region, while also searching for comparable features. In his work he identifies three particular characteristics of Islamic law in the region: the way in which local traditions have accommodated *shari'a*; the inevitable reconstruction of *shari'a* by colonisers in building the colonial state; and the 'Islamisation' of state policies and institutions in post-independent states, particularly since the 1970s.<sup>9</sup>

Hooker developed particular expertise in the legal traditions of Malaysia and Indonesia, and published extensively on issues of *adat* (customary law) and its interaction with Islamic law, as well as on *fatawa* (Islamic legal opinions). The range and depth of his compilations and commentary on Islamic case law in the region are impressive, given that for the most part he was writing in an era without the internet, and most of the legal texts he relied upon were only available in hardcopy (although this is still the case to some extent today). Throughout his work, he has emphasised the reality of legal pluralism in the region, and was one of the foundational contributors to this broader theoretical field.<sup>10</sup>

An early, comprehensive survey of Islamic legal history in the region is contained in Hooker's work *Islamic Law in South-East Asia*.<sup>11</sup> This volume builds upon his previous concise legal history of the region,<sup>12</sup> his historiography of Islamic law in particular,<sup>13</sup> and his

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<sup>6</sup> See Gary Bell, 'Pluralism in the Life and Work of M. B. Hooker' *Journal of Legal Pluralism* (forthcoming). See also Gary Bell and Mike Dowdle (eds) *Pluralism, Transnationalism and Culture in Asian Law: In Honour of MB Hooker* (Singapore: ISEAS, forthcoming).

<sup>7</sup> MB Hooker, *The Laws of Southeast Asia. Vol 1* (Singapore: Butterworths, 1988).

<sup>8</sup> MB Hooker, *Islamic Law in Southeast Asia* (New York: Oxford University Press, 1984).

<sup>9</sup> Hooker, *Islamic Law in Southeast Asia*, v.

<sup>10</sup> MB Hooker, *Legal Pluralism: An Introduction to Colonial and Neo-colonial Laws* (Oxford: Clarendon Press, 1975).

<sup>11</sup> MB Hooker, *Islamic Law in Southeast Asia* (New York: Oxford University Press, 1984).

<sup>12</sup> MB Hooker, 'The Islamic Legal World: The Law Texts of Island Southeast Asia', in MB Hooker (ed) *A Concise Legal History of Southeast Asia* (Oxford: Clarendon Press, 1978).

pioneering work on legal pluralism that included a brief section on Islam and the law in Indonesia during the colonial period.<sup>14</sup> He demonstrates the ways Islamic law was reformulated by European colonisers, and then traces the gradual Islamisation of state law across Southeast Asia as states became independent from colonial powers. Overall, his work has primarily been that of a comparative lawyer, with a focus on conflicts of law and plural legal systems.

Heavily influenced by, and explicitly drawing upon Hooker's work, Tim Lindsey and Kerstin Steiner have published a major series on *Islam, Law and the State in Southeast Asia*, which includes volumes on Indonesia and Singapore, and a combined volume on Malaysia and Brunei.<sup>15</sup> These volumes provide an extensive overview and insight into modern state institutions in the region, including on Islamic education, Islamic finance, Islamic courts, Islamic personal law, Islamic philanthropy, and contemporary debates arising from the state regulation of Islam. Lindsey and Steiner focus on modern states in Southeast Asia and demonstrate the ways in which states have selected from among Islamic legal traditions in order to achieve public policy objectives in shifting political environments.

The work of scholars such as Hooker, Lindsey, and Steiner has contributed to the task of documenting Islamic practise and its manifestation in state structures over time in the region, and in doing so has advocated for the serious study of law and Islam in Southeast Asia. I turn now to consider the scholarship on Islamic law and the state in Muslim-majority countries of Southeast Asia.

### **3. Islamic Law and the State in Muslim-Majority Southeast Asia**

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<sup>13</sup> MB Hooker, 'The Law Texts of Muslim South-East Asia', in MB Hooker (1986) *The Laws of Southeast Asia. Vol I* (Singapore: Butterworths, 1986).

<sup>14</sup> MB Hooker, *Legal Pluralism: An Introduction to Colonial and Neo-colonial Laws* (Oxford: Clarendon Press, 1975) pp 265-286.

<sup>15</sup> Tim Lindsey, *Islam, Law and the State in Southeast Asia. Vol I: Indonesia* (New York: IB Taurus, 2012); Tim Lindsey and Kerstin Steiner, *Islam, Law and the State in Southeast Asia. Vol III: Malaysia and Brunei* (New York: IB Taurus, 2012); Tim Lindsey and Kerstin Steiner, *Islam, Law and the State in Southeast Asia. Vol II: Singapore* (New York: IB Taurus, 2012). In the interests of disclose, from 2007 – 2010, I was one (of many) research assistants on this project.

Countries where Muslims form a majority of the population in Southeast Asia have experienced similar tensions in terms of Islam and the state, and scholarly research has centred on a set of common themes. First, scholars have considered how modern governments in Southeast Asia regulate religious affairs and the impact of such regulations on Muslims and non-Muslims. They have found that, while Constitutional recognition of Islam plays a role, it has often been government policies and regulations that have had the greatest impact on Islamic affairs. Further, concerning the compatibility of Islam, constitutionalism, and democracy, scholars have affirmed the co-existence of Islamic legal norms and democratic principles

Second, scholars have examined the increasing regulation of the family through Islamic personal law on matters of marriage, divorce, child custody, and inheritance. The codification of Islamic law raises several puzzles that have occupied scholars, such as whether Islamic courts or the general civil courts are most suited to adjudicate these cases; whether a system of Islamic courts should be supervised by the general courts through a system of appeals; which legal texts should be used to determine Islamic personal law cases and whether Islamic texts should be codified, and if so, how; and the procedures for training, selection, and appointment of Islamic court staff, not the least judges and lawyers.

A third theme for scholars is the sources of Islamic law and religious authority. Some Islamic authorities are recognised as part of the state structure in Southeast Asia. The institutionalisation of Islam has had a significant impact on the form and shape of Islamic legal traditions and determines who gets to speak for Islam. I turn now to consider how scholars have sought to understand the regulation and bureaucratisation of Islam in Indonesia, Malaysia, Brunei, and Singapore.

### **Indonesia: Nationalizing Islamic Law**

In response to the increasing regulation of Islamic affairs by the state, a major subject of scholarly debate unique to Southeast Asia has been the emergence of a national *madhhab* (Islamic school of law). This possibility has been raised by scholars of Indonesia such as Professor Hazarin, former president of the State Islamic University of Indonesia (1960-1975). His call for a new *ijtihad* (independent reasoning) was developed later by Western scholars such as Professor Dan S Lev<sup>16</sup> and Hooker. This line of reasoning has never intended to

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<sup>16</sup> Dan Lev, *Islamic Courts in Indonesia: A Study of the Political Bases of Legal Institutions* (Berkeley: University of California Press, 1972), p 219.

suggest that Islamic law in Indonesia does not derive from one of the recognised four schools of Islamic law, but rather reflects the aspects of Islamic legal doctrine that have developed in a unique way across the Indonesian archipelago.

The institutionalisation and regulation of religion in Indonesia is embodied in studies of the Ministry of Religion, which recognises six religions – Buddhism, Confucianism, Hinduism, Protestantism, Catholicism, and Islam. From the beginning, however, its main focus and efforts have been on Islamic affairs, and Islamic education in particular. The creation of the Ministry of Religion was a crucial part of the bureaucratisation of Islam.<sup>17</sup> Hooker has observed that the Ministry plays an influential – and lucrative – role in the administration and commodification of matters such as the *hajj* (pilgrimage to Mecca).<sup>18</sup> This phenomenon forms part of Hooker’s broader thesis on the concept of an Indonesian *madhhab*, in which he argues that the shape of *shari’a* in Indonesia has taken on an ‘indigenous originality’.<sup>19</sup> The concept of an Indonesian *madhhab* was later affirmed by Lindsey as a framework through which to analyse Islamic institutions in Indonesia.<sup>20</sup>

Despite its status as the world’s largest majority-Muslim country, Indonesia is not an Islamic state and its Constitution does not recognise Islamic law as a source of law. The Constitution does, however, recognise the state ideology of the Pancasila, and one of its tenets is the ‘Belief in One God’. Scholars have demonstrated that, although there has been vigorous debate over whether to include an obligation in the constitution for Muslims to follow *shari’a*, proponents of this view have never enjoyed majority support.<sup>21</sup> The more pressing issue in contemporary Indonesia is the way religions are managed and regulated through government policies at the national level, because the national government retains the power to make laws on matters of religion. Since 2003, applications for judicial review of national laws can be heard by the Indonesian Constitutional Court. In reviewing cases on religious issues, such as

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<sup>17</sup> Lev, *Islamic Courts in Indonesia*, 58-59.

<sup>18</sup> MB Hooker, *Indonesian Syariah: Defining a National School of Islamic Law* (Singapore: ISEAS, 2008), pp 205-234.

<sup>19</sup> Hooker, *Indonesian Syariah*, xi.

<sup>20</sup> Lindsey, *Islam, Law and the State in Southeast Asia. Vol I: Indonesia*.

<sup>21</sup> Nadirsyah Hosen, *Sharia and Constitutional Reform in Indonesia* (Singapore: ISEAS, 2007).

the legitimacy of polygamy, the authority of the Religious Courts,<sup>22</sup> and the legality of the criminal offence of blasphemy,<sup>23</sup> the Constitutional Court has generally upheld state policies on the regulation of religion.

The only province in Indonesia that has the right to legislate on matters of Islamic law is Aceh, according to the terms of special autonomy it was given in 1999. While Aceh has been the subject of a number of significant studies,<sup>24</sup> Feener has recently published the most advanced thesis that analyses the development of Islamic law in Aceh as a form of social engineering.<sup>25</sup> Based on his extensive field research in Aceh since the tsunami in 2004, Feener captures not only the rapid pace of development since this time, but the underlying tensions that have accompanied the expansion of Islamic law in public institutions and policies, and its tangible social consequences. He identifies the way in which Islamic reform has gone hand-in-hand with the expansion of Indonesian nationalism and efforts of economic developmentalism. His book considers the key actors and institutions that comprise the Islamic legal system in Aceh and the way these institutions are both public manifestations of religiosity, but also a means for the Indonesian state to exert control over the province of Aceh

The study of the local regulation of religion has at times overlapped with the study of *adat* (custom).<sup>26</sup> For example, the province of West Sumatra, the home of the Minangkabau, has presented a particular paradox for scholars who have struggled to reconcile its matrilineal social structure with its adherence to Islam.<sup>27</sup> Franz and Keebet von Benda Beckmann

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<sup>22</sup> Simon Butt, "Islam, the State and the Constitutional Court in Indonesia," *Pacific Rim Law and Policy Review* 19(2) (2010): 279.

<sup>23</sup> Melissa Crouch, "Law and Religion in Indonesia: The Constitutional Court and the Blasphemy Law," *Asian Journal of Comparative Law* 7(1) (2012): 1-46.

<sup>24</sup> For an excellent legal anthropology of public reasoning and the concept of equality in the context of Aceh, see John Bowen, *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge: Cambridge University Press, 2003).

<sup>25</sup> R Michael Feener, *Shari'a and Social Engineering: The Implementation of Islamic Law in Contemporary Aceh* (Oxford: Oxford University Press, 2013).

<sup>26</sup> MB Hooker, *Adat Law in Modern Indonesia* (Oxford: Oxford University Press, 1978) pp 91-111.

<sup>27</sup> Franz von Benda-Beckmann, *Property in Social Continuity: Continuity and Change in the Maintenance of Property Relationships through Time in Minangkabau, West Sumatra* (The Hague: M Nijhoff, 1979); Franz and



provided the most sustained legal anthropology of the Minangkabau.<sup>28</sup> An impressive study that spans the 1970s to 2010s, a period of over 40 years, the von Benda Beckmanns examine the impact of state policies on local village governance and the shifting dynamics of *adat* and Islam in West Sumatra. Their study finds that, according to the Minangkabau, property is equated with inheritance and so when state law affects property rights, it also affects Islamic law and *adat* law, a reality that has been overlooked by scholars.<sup>29</sup>

There has been consistent scholarly emphasis on the Religious Courts (*Pengadilan Agama*) as institutions that mediate the scope and content of legal pluralism in Indonesia. Indonesia's Religious Courts exist under the authority of the general court system. That is, while Islamic courts may hear cases at first instance, the final level of appeal lies with the general court system. On the one hand, changes in Indonesia's political context have led to reform in the Religious Courts, yet at the same time these Courts are restricted by positive state law.<sup>30</sup> Writing before the introduction of a national law on the Religious Courts (which occurred in 1989) and the introduction of the Compilation of Islamic Law (introduced in 1993 as a guide for the courts), Lev demonstrates that one of the key roles of the courts at this time was to respond to the demands of women, particularly in matters of divorce and inheritance.<sup>31</sup> This finding has been strengthened through recent empirical research that confirms the Religious Courts in Indonesia are widely-respected and provide an avenue of divorce for women.<sup>32</sup> There has also been an increase in the regulation of the Islamic judiciary in Indonesia since it was formalised at the national level in 1989, and Nurlaelawati has demonstrated how this has strengthened the professionalism of and respect for the judiciary.<sup>33</sup>

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Keebet von Benda-Beckmann, 'Adat and Religion in Minangkabau and Ambon, in Henri JM Claessen and David S Moywer (eds) *Time Past, Time Present and Time Future* (Dordrecht: Foris, 1998).

<sup>28</sup> Franz and Keebet von Benda-Beckmann, *Political and Legal Transformations of an Indonesian Polity: The Nagari from Colonisation to Decentralisation* (Cambridge: Cambridge University Press, 2013).

<sup>29</sup> Benda-Beckmanns, *Political and Legal Transformations*, p 27.

<sup>30</sup> Dan S Lev, *Islamic Courts in Indonesia: A Study of the Political Bases of Legal Institutions* (Berkeley: University of California Press, 1972).

<sup>31</sup> Lev, *Islamic Courts in Indonesia*, 182.

<sup>32</sup> Cate Sumner and Tim Lindsey, *Courting Reform: Indonesia's Islamic Courts and Justice for the Poor* (Lowy Institute Paper No 31, 2012) Lowy Institute for International Policy, New South Wales.

<sup>33</sup> Euis Nurlaelawati & Abdurrahman Rahim, "The Training, Appointment and Supervision of Islamic Judges in Indonesia" *Pacific Rim Law and Policy Journal* 21(1) (2012): 43.

## Malaysia: The Islamisation of the State

Scholarship on Islam and the state in Malaysia has struggled to understand the interaction between common law and Islam; the position of women under Islamic law; the power of state governments to pass laws on Islam; and the jurisdiction of the Syariah Courts in relation to the civil court system. To begin with, the Constitution of Malaysia has been the source of significant debate because Article 3(1) states that Islam is the religion of the state. At independence this was generally understood to be confined to the recognition of Islamic personal law for Muslims. The Constitution also blurs Islamic identity with Malay-identity (art. 160(2)), so that being Malay is often thought to be synonymous with being Malay Muslim. In 2001, the debate over whether Malaysia is an Islamic or secular state peaked when Prime Minister Mahathir Mohamed, of the ruling United Malays National Organisation (UMNO), declared Malaysia to be an Islamic state. This and subsequent incidents spurred a large body of scholarship that has sought to unpack the tensions and trajectory of secularism, liberal conceptions of rights, and Islam in Malaysia.<sup>34</sup> The general consensus, as described by Harding, is that the state is more ‘secular’ than Islamic, despite fierce political rhetoric to the contrary.<sup>35</sup>

Aside from the constitutional position of Islam, a distinction between the Indonesian and Malaysian governments is that the power to regulate religion is held by regional states in Malaysia (rather than the central government in Indonesia). This is partly a legacy of the localised history of Islam in the region, and the subsequent fragmentation of British colonial rule, which saw present day Malaysia, Singapore, and Brunei ruled in several distinct ways: the Straits Settlement, the Federated Malay States, the Unfederated Malay States, and British

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<sup>34</sup> Tamir Moustafa, “Judging in God’s Name: State Power, Secularism, and the Politics of Islamic Law in Malaysia” *Oxford Journal of Law and Religion* (2013): 1-16; Tamir Moustafa, “Liberal Rights v Islamic Law? The Construction of a Binary in Malaysian Politics” *Law and Society Review* 47(4) (2013): 771; Amanda Whiting, “Secularism, the Islamic State and the Malaysian Legal Profession” *Asian Journal of Comparative Law* 5 (2010): 1-34.

<sup>35</sup> Andrew Harding, “The Keris, the Crescent and the Blind Goddess: The State, Islam and the Constitution in Malaysia” *Singapore Journal of International and Comparative Law* 6 (2002): 154-180; see for example Hooker, *Islamic Law*, 130-170.

Borneo.<sup>36</sup> This has affected the way scholars approach the regulation of Islam, and there has been greater focus at the state level. For example, scholars have considered the impact and implementation of the Administration of Muslim Law Acts that were passed by nearly all of the states in Malaysia between the 1950s and 1970s.<sup>37</sup> This was followed in the 1980s and 1990s by a strategic national push to establish greater uniformity in the approach and application of Islamic law across Malaysia under the cover of ‘upgrading’ state laws and institutions across the country.<sup>38</sup>

Another reason for a focus at the state level is that the *Shari‘a* Courts are regulated by each state in Malaysia through respective Administration of Islamic Law state statutes, and the Administration of Islamic Law Act for the Federal Territories. The structure and composition of the *Shari‘a* Courts was revised in the 1980s,<sup>39</sup> and since 1988, the *Sharia* Courts are the final level of appeal. This means that the *Shari‘a* Courts, rather than the general courts, have the final say on any case that is first heard by the *Shari‘a* Courts, but it also means that the choice of jurisdiction is even more important. In terms of the composition of these courts, unlike in Indonesia, women do not have a history of serving as judges in the *Shari‘a* Courts in Malaysia and it was only in 2010 that the first female judges were appointed.<sup>40</sup> Whiting has shown that in other sectors such as practising lawyers, the gender representation is more balanced; for example, in the Federal Territories women make up 50 percent of *peguam syarie* (*shari‘a* lawyers).<sup>41</sup>

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<sup>36</sup> See Hooker, *Islamic Law*, for a more detailed history of Islamic law and legal texts in this region, including the Straits Settlement and Singapore (pp 84-129); the Malay States and Peninsula Malaysia (pp 130-160); and Sarawak and Sabah (of former British Borneo, pp 189-220).

<sup>37</sup> Horowitz, “The Qur’an and the Common Law”, 267. See generally Mohammad Hashim Kamali, *Punishment in Islamic Law: An Enquiry into the Hudud Bill of Kelantan* (Petaling Jaya: Ilmiah Publishers, 1995); Mohammad Hashim Kamali, *Islamic Law in Malaysia: Issues and Developments* (KL: Ilmiah Publishers, 2000).

<sup>38</sup> Donald L Horowitz, “The Qur’an and the Common Law: Islamic Law Reform and the Theory of Legal Change” *American Journal of Comparative Law* 42 (1994): 233.

<sup>39</sup> See generally Michael G Peletz, *Islamic Modern: Religious Courts and Cultural Politics in Malaysia*. (Princeton University Press, 2002); Farid Sufian Shuaib, *Powers and Jurisdiction of Syariah Courts in Malaysia* (2<sup>nd</sup> ed, 2008).

<sup>40</sup> Najibah M. Zin, “The Training, Appointment and Supervision of Islamic Judges in Malaysia” *Pacific Rim Law and Policy Journal* 21(1) (2008): 115

<sup>41</sup> Amanda Whiting, “The Training, Appointment and Supervision of Islamic Lawyers in the Federal Territories of Malaysia” *Pacific Rim Law and Policy Journal* 21 (2012): 151.

Since then, there has been growing concern from scholars that the civil courts have given up matters concerning Islam to the Shari‘a Courts at the expense of individual rights, particularly on matters of conversion, burial, and child custody. The role and position of women in Islam has been debated by scholars seeking to understand the tensions between liberal Islam and more conservative perspectives,<sup>42</sup> as has the prohibition on conversion in some states of Malaysia, which is in contrast to its neighbour Indonesia, which does not explicitly ban apostasy.<sup>43</sup>

The Malaysian context has also raised discussions about the interaction between Islam and the common law.<sup>44</sup> Horowitz argues that the influence of the common law is stronger than that of Islam on most legal matters in Malaysia; moreover, on matters that Islamic law does not cover, ‘the model is invariably English law’.<sup>45</sup> This has led scholars such as Hooker to describe the form of Islamic law that has developed in modern Malaysia as an ‘Anglo-Malay *madhhab*’.<sup>46</sup> In some states of Malaysia, such as Negri Sembilan, Hooker has also highlighted the way in which *adat* interacts and overlaps with Islamic law in relation to property and land disputes.<sup>47</sup>

Scholarship on Islam and the state in Singapore is more recent, because Singapore only became independent from Malaysia in the 1960s. Singapore also has a system of Shari‘a Courts for Muslims (who are overwhelming Malay), although unlike Malaysia, appeals from

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<sup>42</sup> Tamir Moustafa, “Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia,” *Law and Social Inquiry* (2013): 1-21; Jaclyn Ling-Chien Neo, “Anti-God, anti-Islam and anti-Quran: Expanding the Range of Participants and Parameters in Discourse over Women's Rights and Islam in Malaysia”, *UCLA Pacific Basin Law Journal* 21 (2004): 29; Li-Ann Thio, “Recent Constitutional Developments: Of Shadows and Whips, Race, Rifts and Rights, Terror and Tudungs, Women and Wrongs” *Singapore Journal of Legal Studies* 1 (2002): 414.

<sup>43</sup> Although there is no legal ban on apostasy in Indonesia ,the Blasphemy Law has at times been used to the same effect as an apostasy law: see Melissa Crouch, *Law and Religion in Indonesia: Conflict and the Courts in West Java* (New York: Routledge, 2014).

<sup>44</sup> Horowitz, “The Qur’an and the Common Law”.

<sup>45</sup> Horowitz, “The Qur’an and the Common Law”, 272, 292.

<sup>46</sup> Steiner and Lindsey, *Islam, Law and the State in Southeast Asia: Malaysia and Brunei*, p 7.

<sup>47</sup> MB Hooker, *Adat Laws in Modern Malaya: Land Tenure, Traditional Government and Religion* (New York: Oxford University Press, 1972) pp 209-250.

the Shari'a Courts can still be brought to the general courts. In 1966 the Administration of Muslim Law Act was passed to regulate all aspects of Islamic personal law in Singapore.<sup>48</sup> As Lindsey and Steiner note, the regulation of Islamic practise in Singapore aligns with the broader nature and philosophy of the Singapore state, which seeks to control and contain any potential or perceived sources of social conflict.<sup>49</sup>

### **Brunei: Islam and the Sultan**

The other Muslim-majority state in Southeast Asia, Brunei, has a population of just over 400,000, of whom 60 percent are Malay Muslims. The Constitution of Brunei explicitly recognises that Islam is the religion of the state and that the Sultan of Brunei is the leader of Islam.<sup>50</sup> Scholars have demonstrated the way that Islam is heavily regulated and centrally controlled by the Sultan of Brunei, and the state bureaucracy has been subject to a process of increasing Islamisation.<sup>51</sup> In May 2014, the oil-rich Sultanate made world headlines when the Sultan introduced the first of three stages of a new Penal Code based on Islamic law.<sup>52</sup> This is just one indication of the shifting nature of Islamic law in Southeast Asia, and such developments need to be considered and analysed by scholars in the future.

There are a wide range of issues regulated by the state that I have been unable to canvass in this section that are the subject of more recent scholarly research, such as the role of the state in the collection of *zakat* (alms), the implementation of Islamic criminal law, and the regulation of Islamic banking and finance. One of the gaps in past research is a focus on

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<sup>48</sup> Hooker, *Islamic Law*, 102-122; Lindsey and Steiner, *Islam, Law and the State in Southeast Asia: Singapore*.

<sup>49</sup> Lindsey and Steiner, *Islam, Law and the State in Southeast Asia: Singapore*.

<sup>50</sup> Constitution of Brunei, art 3(1) and (20).

<sup>51</sup> See Hooker, *Islamic Law*, 177-188; Lindsey and Steiner, *Islam, Law and the State in Southeast Asia. Vol III: Malaysia and Brunei*; Ann Black, "Ideology and Law: The Impact of the MIB Ideology on Law and Dispute Resolution in the Sultanate of Brunei Darussalam" *Asian Journal of Comparative Law* 3(1) (2008); AVM Horton, 'Brunei in 2004: Window-Dressing an Islamizing Sultanate' *Asian Survey* 45(1) (2005): 180-185.

<sup>52</sup> BBC, 'Brunei introduces tough Islamic penal code', 30 April 2014, <http://www.bbc.com/news/world-asia-27216798>.

Islamic legal professionals, and the importance of studying judges and lawyers in Islamic courts across Southeast Asia has only recently begun to receive attention.<sup>53</sup>

#### **4. Islamic Law and the State in Muslim-Minority Southeast Asia**

There has been less scholarly attention on Islamic law in Muslim-minority Southeast Asia, partly because scholarship has tended to focus on conflict, violence, and the need to resolve demands for separatism or special autonomy.<sup>54</sup> There is nevertheless a small body of scholarship that provides a basis from which we can further develop our understanding of Islamic law in Southern Thailand, the Southern Philippines, and Myanmar. I discuss Thailand and the Philippines scholarship together, as these countries raise similar issues. While Myanmar often been lumped in together with these two countries,<sup>55</sup> I argue that a distinctive set of issues set Myanmar apart, and needs to be reflected in future scholarship.

##### **Thailand and the Philippines: Conflict against the state and state recognition of Islam**

Scholarship on Thailand and the Philippines inevitably focuses on understanding the tensions and armed conflict between Muslim minorities and the state. A critical part of this focus has also been the codification of Islamic personal law within the nation state, and the paradox that this potentially brings to the practise of Islam under greater state control.

Thailand is a Buddhist-majority country but its largest minority religious group is Muslims, who make up 4.9 percent of the population. These Muslims are ethnically Malay and the majority live in one of four provinces – Yala, Songkhla, Pattani and Narathiwat - in Southern Thailand, bordering Malaysia. The most significant monograph that has addressed the historical role of the state in relation to its Muslim minority is by Tamara Loos.<sup>56</sup> Loos seeks to dispel the common assumption that Siam was something of an exception given that it was

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<sup>53</sup> Clark B. Lombardi & R. Michael Feener, “Why Study Islamic Legal Professionals?” *Pacific Rim Law and Policy Journal* 21(1) (2012): 1.

<sup>54</sup> See for example Michelle Miller (ed) *Autonomy and Armed Separatism in South and Southeast Asia* (Singapore: ISEAS, 2012).

<sup>55</sup> See for example, Moshe Yegar, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand and Western Burma/Myanmar* (New York: Lexington Books, 2002).

<sup>56</sup> Tamara Loos, *Subject Siam: Family, Law, and Colonial Modernity in Thailand*. Cornell University Press, 2006.

never formally colonised by a foreign power. Instead, she highlights the way that the state of Siam played the role of both coloniser and colonised, and demonstrates the central role of law in relation to the colonisation of the Muslim minority areas, and the construction of family law in particular.

The most recent attempt by the state to regulate Islam is the Royal Act Concerning the Administration of Islamic Law 1997, which only applies to Southern Thailand.<sup>57</sup> This allows for the application of Islamic personal law, including family law and inheritance, in the four provincial courts. While there have been demands in the past for a separate Islamic Court at the national level, these demands have not yet been realised. There have been few detailed analyses of the actual practise of Islamic law, formal or informal, in Southern Thailand,<sup>58</sup> although there have been recent studies on particular issues such as Islamic education,<sup>59</sup> and of Islamic philanthropy in Thailand.<sup>60</sup>

Aside from the codification of Islamic personal law, most scholarship has focused on the violent conflict between the Thai government and its Muslim minorities who desire some form of independence from the Thai state. Various legal options have been considered, yet the inadequacy of a purely legal response is also acknowledged.<sup>61</sup> Since the conflict escalated in mid-2000s, several scholars have demonstrated both the complexity of the conflict and the competing demands that have been made, but also the complicity of the Thai (Buddhist) state and Buddhist monks.<sup>62</sup> This scholarship, and the work of Michael Jerryson in particular, has helped to dispel the myth that Buddhism is a peaceful religion and Islam in contrast is

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<sup>57</sup> Ramizah Wan Muhammad, 'The Dato' Yuthitham and the Administration of Islamic Law in Southern Thailand' (ARC Federation Fellowship Policy Paper, 2011) [http://www.law.unimelb.edu.au/files/dmfile/Ramizah\\_web1.pdf](http://www.law.unimelb.edu.au/files/dmfile/Ramizah_web1.pdf)

<sup>58</sup> See Hooker, *Islamic Law*, 164.

<sup>59</sup> Joseph Chinyong Liow, *Islam, Education and Reform in Southern Thailand* (Singapore: ISEAS, 2009).

<sup>60</sup> Rajeswary Ampalavanar Brown, *Islam in Modern Thailand: Faith, Philanthropy and Politics* (New York: Routledge, 2013).

<sup>61</sup> Peter Leyland, "Thailand's Troubled South: Examining the Case for Devolution from a Comparative Perspective" *Australian Journal of Asian Law* 11(1) (2009): 1-28; John Funston, "Malaysia and Thailand's Southern Conflict: Reconciling Security and Ethnicity" *Contemporary Southeast Asia* 32(2) (2010): 234.

<sup>62</sup> See for example Michael Jerryson, *Buddhist Fury: Religion and Violence in Southern Thailand* (Oxford University Press, 2011); Duncan McCargo, *Rethinking Thailand's Southern Violence*. Singapore, NUS, 2007; Duncan McCargo, *Mapping National Anxieties: Thailand's Southern Conflict*. NIAS Press, 2012.

violent, by levelling the field and demonstrating that violence may originate from adherents across the religious divide. This also demonstrates the importance of studying Islamic communities in their local context, rather than in isolation from other religious communities.

Scholarship on Islamic law and the Muslim community in the Philippines has taken a similar tone, with a particular focus on understanding the history of conflict against the (non-Muslim) state.<sup>63</sup> The Philippines is a majority-Catholic country, but has a Muslim population of between 5-10 percent. Known as the ‘Moro’, these Muslims trace their background to the former Malay Sultanate established in the 14<sup>th</sup> century. Hooker’s work remains the most complete discussion on Moro Islamic texts and state responses to demands from the Muslim community.<sup>64</sup>

Scholars have been drawn to study the impact of changes in governance in the Muslim south. In the past, the Muslim south had been governed separately during the period of Spanish rule, and then when the United States took control of the Philippines in 1898, the southernmost major island of Mindanao remained separate from the rest of the country. While resistance to the state had a long history,<sup>65</sup> attacks by Muslims increased in response to the declaration of martial law in 1972. Scholars have highlighted the intersection of ethnic identity with religious identity, similar to other parts of Southeast Asia, and Federspiel has demonstrated how a heightened sense of connection with the broader Islamic world has developed as a way of defining Moro Muslim identity as distinct from the state.<sup>66</sup>

The perceived need to formalise Islamic law, as Emon has shown, has been part of efforts to define the position of Muslims in the past, present, and future.<sup>67</sup> In 1977, the state accommodated Islamic personal law through the adoption of the Code of Muslim Personal

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<sup>63</sup> The only major anthropology is Thomas M Kiefer, *The Tausug: Violence and Law in a Philippine Moslem Society* (New York: Holt Rinehart and Winston, 1972).

<sup>64</sup> Hooker, *Islamic Law*, 221-244.

<sup>65</sup> On the politics of daily resistance, see Thomas M. McKenna, *Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines* (Berkeley: University of California Press, 1978).

<sup>66</sup> Howard M Federspiel, ‘[Islam and Muslims in the Southern Territories of the Philippine Islands During the American Colonial Period \(1898 to 1946\)](#)’, *Journal of Southeast Asian Studies* 29(2) (1998): 340-356.

<sup>67</sup> Anver Emon, ‘Techniques and Limits of Legal Reasoning in Shar’ia today’ *Berkeley Journal of Middle Eastern and Islamic Law* 2(1) (2009): 101-124.



Laws of the Philippines.<sup>68</sup> Mastura, as a participant in the process, captured the challenges of this drafting process through the lens of legal pluralism.<sup>69</sup> The introduction of the Code of Muslim Personal Laws has been depicted as both an expression of Islamic consciousness, and as a mechanism for the state to institutionalise and therefore limit the expression of Islam.<sup>70</sup> Chiarella has highlighted that real practical issues of implementation remain, such as the insufficient number of judges and qualified Islamic legal professionals, as well as unresolved issues arising from the multiple and at times competing sources of Islamic authority.<sup>71</sup> Despite the introduction of a codified form of Islamic personal law, the violent struggle against the state has continued. In 2012, a peace agreement was signed between the government and the Moro Islamic Liberation Front.<sup>72</sup> The ongoing challenge to the system of Islamic personal law, and the fragile agreement with the state, are developments that require further research in both comparative and historical contexts.

### **The Muslim Minorities of Myanmar**

While Muslim communities of Myanmar have often been studied simultaneously as part of comparative scholarship on Thailand and the Philippines, this has obscured the differences in the identity and experiences of the Muslim communities in Myanmar. Figures on the Muslim population range from the government's conservative estimate of 4 percent to up to 15 percent. Muslim communities are characterized by a high degree of diversity, and includes Burmese Muslims, Indian Muslims, Shan Muslims, Chinese Muslims, Rohingya, Kaman, and others. There is an urgent need for in-depth historical studies on Muslim communities in Myanmar. Keck has begun this task, and his work explains why Muslims were an 'invisible minority' during the British colonial period, rarely receiving a mention in the records of British colonial authorities, because they were perceived to be 'transitory' and 'alien' to

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<sup>68</sup> Hooker, *Islamic Law in Southeast Asia*, 231-245; Matthew Stephens, *Islamic Law in the Philippines: Between Appeasement and Neglect* (ARC Federation Fellowship Policy Paper, Melbourne University, 2011) [http://www.law.unimelb.edu.au/files/dmfile/Stephens\\_web2.pdf](http://www.law.unimelb.edu.au/files/dmfile/Stephens_web2.pdf).

<sup>69</sup> Michael O Mastura, 'Legal Pluralism in the Philippines' *Law & Society Review* (1994).

<sup>70</sup> G Carter Bentley, 'Islamic Law in Christian Southeast Asia: The Politics of Establishing Shari-a Courts in the Philippines' *Philippine Studies* 29(1) (1981): 45-65.

<sup>71</sup> Gregory M. Chiarella, "Sources of Law, Sources of Authority: The Failure of the Philippines' Code of Muslim Personal Law" *Pacific Rim Law and Policy Journal* 21(1) (2012): 223.

<sup>72</sup> Human Rights Resource Centre, *Keeping the Faith: A Study of Freedom of Thought, Conscience and Religion in ASEAN*. Jakarta: University of Indonesia. 2015, 363-409.

Burma.<sup>73</sup> It was assumed that Muslims did not really ‘belong’ to Burma and that Muslims were ‘non-Burmese’, despite the fact that Islam in Burma long preceded the arrival of the British. While there were several prominent Burmese Muslims and Islamic organisations in the independence movement,<sup>74</sup> the declining political situation in the late 1950s followed by the military coup and introduction of socialism in the 1960s led to a particularly hostile period for Muslims. This has led Berlie to argue that Muslims have been subject to a conscious attempt at ‘Burmanisation’,<sup>75</sup> although this claim is not unique to Muslims, as it has been made to describe the policies of the military government towards other non-Buddhist, non-Burman groups.

Islamic personal law was recognised in Myanmar during the period of British colonialism based on the Anglo-Muhammadan law of British India, and this persisted after independence. Yet unlike the rest of Southeast Asia, Myanmar is the only country where cases concerning Islamic personal law are heard and determined by the general courts. The jurisprudence developed by the courts is based on early Anglo-Muhammadan textbooks in English,<sup>76</sup> although we know little about the case law since the 1960s.<sup>77</sup> While the Department of Religion is solely focused on the propagation of Buddhism, there are several Islamic organisations recognised by the state and some of these do issue *fatawa*, such as the Islamic Religious Affairs Council. There is an informal system of Islamic education in Myanmar, but this also remains unregulated by the state.<sup>78</sup> The practise of Islam in Myanmar is therefore among the least regulated by the state in Southeast Asia.

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<sup>73</sup> Stephen L Keck, ‘The Making of an Invisible Minority: Muslims in Colonial Burma’, in *Living on the Margins: Minorities and Borderlines in Cambodia and Southeast Asia* (Center for Khmer Studies, Cambodia, 2008).

<sup>74</sup> Moshe Yegar, *The Muslims of Burma* (Germany: Otto Harrassowitz, 1972).

<sup>75</sup> Jean Berlie, *The Burmanisation of Myanmar Muslims* (Bangkok: White Lotus, 2008).

<sup>76</sup> See Hooker, *Islamic Law*, 44-82. Hooker provides a basic description of Anglo-Muhammadan law as adopted in Burmese case law up to the 1950s, but it should be noted that his claim that Islamic personal law ceased to exist from the 1960s is factually incorrect.

<sup>77</sup> But see Melissa Crouch, ‘Islamic Personal Law in Myanmar’, in M Crouch (ed) *Islam and the State in Myanmar: Muslim-Buddhist Relations and the Politics of Belonging* (OUP India, forthcoming 2015).

<sup>78</sup> Mohammed Mohiyuddin Mohammed Sulaiman, ‘Islamic Education in Myanmar: A Case Study’ in Monique Skidmore and Trevor Wilson (eds) *Dictatorship, Disorder and Decline in Myanmar* (ANU Press, 2008).

Of particular concern to both scholars and human rights advocacy groups has been the precarious situation of the Muslim group that primarily resides in Rakhine State, often referred to as the Rohingya,<sup>79</sup> and where they form a majority near the border of Bangladesh. Concerns have been raised regarding human rights violations, and even allegations of genocide, as well as challenges concerning their citizenship, irregular migration, and the risk of terrorism. Yet, as Selth<sup>80</sup> points out, while there were terrorist connections with Rohingya groups in the 1970s, these groups were very small and were never a real threat to the government, and there is no evidence of such radicalism today. While severe human rights concerns remain, there is the potential for academia to provide a more informed analysis, given the often polemic nature of human rights reports.

Overall, while Muslim-minorities of the Southern Philippines, Southern Thailand, and Myanmar present a challenging environment for scholars conducting field research, there is a need for ethnographic scholarship that can illuminate how communities in these fragile contexts maintain practises of Islam both within and beyond the view of the state, and this can provide an informed response to critical policy debates.

## 5. Conclusion

This review began with the work of MB Hooker because his research has laid a foundation for the comparative study of Islamic texts and state recognition of Islamic law in Southeast Asia. Hooker devoted a great amount of energy to rebutting the presumption that Western law was superior to Islamic law, arguing that evolutionary theories of legal change were flawed, and to demonstrate the way Western and colonial law sought to contain and control Islamic law through the state. In particular, Hooker focused on unmasking the myth that Islamic law in countries such as Indonesia is a ‘corruption’ of its classical Middle Eastern origins and texts.

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<sup>79</sup> Moshe Yegar, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand and Western Burma/Myanmar* (New York: Lexington Books, 2002).

<sup>80</sup> Andrew Selth, “Burma's Muslims and the War on Terror” *Studies in Conflict & Terrorism* 27(2) (2004): 107-126.

Many of the original questions Hooker explored in the context of Southeast Asia remain relevant. These includes questions such as ‘what counts as Islamic law?’; ‘who is a Muslim for the purpose of applying Islamic law?’; ‘to what extent is Islamic law reflected in state law?’; ‘which institutions have the power to interpret Islamic law?’; ‘where does the source or authority for Islamic law come from?’; ‘which authorities have the power and legitimacy to determine the scope of Islamic law?’; and ‘how are conflicts of laws between Islamic law and state or customary law resolved?’ These questions have begun to be explored from new perspectives, beyond a doctrinal comparative law approach, and within a broader theoretical framework of the modern, secular state and religion-state relations.

The strengths of this scholarly field are that it is inherently socio-legal, it has embraced the plurality of legal traditions in the region, and has pioneered empirically-based understandings of Islamic law in the region. In Muslim-majority contexts such as Indonesia and Malaysia, there has been a focus on Islamic institutions and religious authorities, while the development of Islamic legal professionals remains an ongoing area for research. In Muslim-minority contexts such as Thailand, the Philippines, and Myanmar, scholarly research has often focused on the demand for legal solutions to conflicts between Muslim communities and the state; yet the everyday practises of Islamic law also deserver greater attention.

Another reason why scholarship on Islamic law and society in Southeast Asia is valuable is because it challenges us to re-examine many of the assumptions that are taken for granted in scholarship on Islamic legal studies more generally. In particular it forces us to confront the interaction between local customs and traditions, and the practise of Islamic law. It also highlights the fluid and dynamic nature of the interaction between Islamic authorities and institutions, and state actors and organisations, as well as between contested concepts of constitutionalism, democracy, and Islamic law.

To conclude, Anderson’s classic book on *Imagined Communities*, which draws on his extensive knowledge of Southeast Asia, aimed to ‘de-Europeanise the theoretical study of nationalism’.<sup>81</sup> In the same way, the review of scholarship in this chapter reminds us of the work that still needs to be done to ‘de-Arabicise’ or ‘de-Middle Easternise’ Islamic legal studies. Contemporary Southeast Asian expressions and practises of Islamic law should not

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<sup>81</sup> Benedict Anderson, *Imagined Communities* (New York: Verso, first published 1983, 2006) 209.

be treated as peripheral to Islamic legal studies, but should rather be considered as a dynamic and exciting vantage point from which to explore core questions at the heart of the study of Islamic law and society.

## References

- Abbas, Ahmad Nizam bin. "The Islamic Legal System in Singapore" *Pacific Rim Law and Policy Journal* 21(1) (2012): 163.
- Anderson, Benedict. *Imagined Communities*. New York: Verso, First published 1983, 2006.
- Bell, Gary. "Pluralism in the Life and Work of MB Hooker." *Journal on Legal Pluralism* (forthcoming).
- Bell, Gary and Mike Dowdle (eds) *Pluralism, Transnationalism and Culture in Asian Law: In Honour of MB Hooker* (Singapore: ISEAS, forthcoming).
- Berlie, Jean. *The Burmanisation of Myanmar Muslims*. Bangkok: White Lotus, 2008.
- Benda-Beckmann, Franz von. *Property in Social Continuity: Continuity and Change in the Maintenance of Property Relationships through Time in Minangkabau, West Sumatra*. The Hague: M Nijhoff, 1979.
- Benda-Beckmann, Franz von, and Keebet von. 'Adat and Religion in Minangkabau and Ambon, in Henri JM Claessen and David S Moywer (eds) *Time Past, Time Present and Time Future*. Dordrecht: Foris, 1998.
- Benda-Beckmann, Franz von, and Keebet von. *The Minangkabau of West Sumatra*. Cambridge: Cambridge University Press, 2013.
- Bowen, John. *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge: Cambridge University Press, 2003.
- Black, Ann, "Ideology and Law: The Impact of the MIB Ideology on Law and Dispute Resolution in the Sultanate of Brunei Darussalam" *Asian Journal of Comparative Law* 3(1) (2008): art 5.
- Butt, Simon, "Islam the State and the Constitutional Court in Indonesia" *Pacific Rim Law and Policy Review* 19(2) (2008): 279.
- Butt, Simon and Tim Lindsey. *The Constitution of Indonesia: A Contextual Analysis*. Oxford: Hart Publishing, 2012.
- Chiarella, Gregory M. "Sources of Law, Sources of Authority: The Failure of the Philippines' Code of Muslim Personal Law" *Pacific Rim Law and Policy Journal* 21(1) (2012): 223.
- Crouch, Melissa, 'Islamic Personal Law in Myanmar' in M Crouch (ed) *Islam and the State in Myanmar: Muslim-Buddhist Relations and the Politics of Belonging*. OUP India. forthcoming 2015.
- Crouch, Melissa. *Law and Religion in Indonesia: Conflict and the Courts in West Java*. New York: Routledge, 2014.
- Crouch, Melissa, "Law and Religion in Indonesia: The Constitutional Court and the Blasphemy Law" *Asian Journal of Comparative Law* 7(1) (2012): 1-46.
- Emon, Anver, 'Techniques and Limits of Legal Reasoning in Shar'ia today' *Berkeley Journal of Middle Eastern and Islamic Law* 2(1) (2009): 101-124. Federspiel, Howard M, '[Islam and Muslims in the Southern Territories of the Philippine Islands During the American Colonial Period \(1898 to 1946\)](#)', *Journal of Southeast Asian Studies* 29(2) (1998): 340-356.

- Feener, Michael and Mark Cammack, "The Islamic Judicial Structure in Indonesia" *Pacific Rim Law & Policy Journal* 21(1) (2012).
- Formici, Chiara and Michael Feener (eds) *Shi'ism in South East Asia: 'Alid Piety and Sectarian Constructions*. London: I.B. Tauris, 2014.
- Funston, John, "Malaysia and Thailand's Southern Conflict: Reconciling Security and Ethnicity" *Contemporary Southeast Asia* 32(2) (2010): 234.
- Harding, Andrew, "The Keris, the Crescent and the Blind Goddess: The State, Islam and the Constitution in Malaysia" *Singapore Journal of International and Comparative Law* 6 (2002) 154-180.
- Harding, Andrew, "Malaysia: Religious Pluralism and the Constitution in a Contested Polity" *Middle East Law and Governance* 4 (2012): 356-385.
- Hooker, MB. *Indonesian Syariah: Defining a National School of Islamic Law*. Singapore: ISEAS, 2008.
- Hooker, MB. *Indonesian Islam: Social Change through Contemporary Fatwa*. Honolulu: University of Hawaii Press, 2003.
- Hooker, MB. 'The Law Texts of Muslim South-East Asia', in MB Hooker (ed) *The Laws of Southeast Asia. Vol 1* Singapore: Butterworths, 1986.
- Hooker, MB, *Islamic Law in Southeast Asia*. New York: Oxford University Press, 1984.
- Hooker, MB, *A Concise Legal History of Southeast Asia*. Oxford: Clarendon Press, 1978.
- Hooker, MB, *Adat Law in Modern Indonesia*. Oxford: Oxford University Press, 1978.
- Hooker, MB, *Legal Pluralism: An Introduction to Colonial and Neo-colonial Laws*. Oxford: Clarendon Press, 1975.
- Hooker, MB, *Adat Laws in Modern Malaya: Land Tenure, Traditional Government and Religion*. New York: Oxford University Press, 1972.
- Horowitz, Donald L. "The Qur'an and the Common Law: Islamic Law Reform and the Theory of Legal Change" *American Journal of Comparative Law* 42 (1994): 233.
- Horton, AVM. "Brunei in 2004: Window-Dressing an Islamizing Sultanate" *Asian Survey* 45(1) (2005): 180-185.
- Hosen, Nadirsyah, *Sharia and Constitutional Reform in Indonesia*. Singapore: ISEAS, 2007.
- Human Rights Resource Centre, *Keeping the Faith: A Study of Freedom of Thought, Conscience and Religion in ASEAN*. Jakarta: University of Indonesia. 2015.
- Jerryson, Michael, *Buddhist Fury: Religion and Violence in Southern Thailand*. Oxford University Press, 2011.
- Kamali, Mohammad Hashim, *Punishment in Islamic Law: An Enquiry into the Hudud Bill of Kelantan*. Petaling Jaya: Ilmiah Publishers, 1995.
- Kamali, Mohammad Hashim, *Islamic Law in Malaysia: Issues and Developments*. KL: Ilmiah Publishers, 2000.
- Keck, Stephen L, 'The Making of an Invisible Minority: Muslims in Colonial Burma' in *Living on the Margins: Minorities and Borderlines in Cambodia and Southeast Asia*. Center for Khmer Studies, Cambodia, 2008.
- Lev, Dan. *Islamic Courts in Indonesia: A Study of the Political Bases of Legal Institutions*. Berkeley: University of California Press, 1972.
- Lindsey, Tim. *Islam, Law and the State in Southeast Asia. Vol I: Indonesia*. New York: IB Taurus, 2012.
- Lindsey, Tim and Kerstin Steiner, *Islam, Law and the State in Southeast Asia. Vol II: Singapore*. New York: IB Taurus, 2012.

- Lindsey, Tim and Kerstin Steiner, *Islam, Law and the State in Southeast Asia. Vol III: Malaysia and Brunei*. New York: IB Taurus, 2012.
- Leyland, Peter, 'Thailand's Troubled South: Examining the Case for Devolution from a Comparative Perspective' *Australian Journal of Asian Law* 11(1) (2009): 1-28
- Liow, Joseph Chinyong, *Islam, Education and Reform in Southern Thailand*. Singapore: ISEAS, 2009.
- Lombardi, Clark B. & R. Michael Feener "'Why Study Islamic Legal Professionals?'" *Pacific Rim Law and Policy Journal* 21(1) (2012) 1.
- Loos, Tamara, *Subject Siam: Family, Law, and Colonial Modernity in Thailand*. Cornell University Press, 2006.
- Mastura, Michael O, 'Legal Pluralism in the Philippines' *Law and Society Review* 28(3) (1994): 461.
- McKenna, Thomas M. *Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines*. Berkeley: University of California Press, 1998.
- McCargo, Duncan, *Mapping National Anxieties: Thailand's Southern Conflict*. NIAS Press, 2012.
- McCargo, Duncan, *Rethinking Thailand's Southern Violence*. Singapore, NUS, 2007
- Miller, Michelle (ed) *Autonomy and Armed Separatism in South and Southeast Asia*. Singapore: ISEAS, 2012.
- Muhammad, Ramizah Wan, *The Dato' Yuthitham and the Administration of Islamic Law in Southern Thailand*, ARC Federation Fellowship Policy Paper, 2011  
[http://www.law.unimelb.edu.au/files/dmfile/Ramizah\\_web1.pdf](http://www.law.unimelb.edu.au/files/dmfile/Ramizah_web1.pdf).
- Moustafa, Tamir, "Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia" *Law and Social Inquiry* (2013) 1-21.
- Moustafa, Tamir, "Judging in God's Name: State Power, Secularism, and the Politics of Islamic Law in Malaysia" *Oxford Journal of Law and Religion* (2012): 1-16.
- Moustafa, Tamir, "Liberal Rights v Islamic Law? The Construction of a Binary in Malaysian Politics" *Law and Society Review* 47(4) (2013): 771.
- Neo, Jaclyn Ling-Chien, "Anti-God, anti-Islam and anti-Quran": Expanding the Range of Participants and Parameters in Discourse over Women's Rights and Islam in Malaysia" *UCLA Pacific Basin Law Journal* 21 (2004): 29.
- Nurlaelawati, Euis & Abdurrahman Rahim, 'The Training, Appointment and Supervision of Islamic Judges in Indonesia' *Pacific Rim Law and Policy Journal* 21(1) (2012): 43.
- Pew Research Center's Forum on Religion & Public Life, *Mapping the Global Muslim Population: A Report on the Size and Distribution of the World's Muslim Population* (2009) [www.pewforum.org](http://www.pewforum.org)
- Rajeswary Ampalavanar Brown, *Islam in Modern Thailand: Faith, Philanthropy and Politics*. New York: Routledge, 2013.
- Ramsay, Jacob, 'Cambodia and Vietnam' in Greg Fealy and Sally White (eds) *Voices of Islam in Southeast Asia: A Sourcebook*. Singapore: ISEAS, 2006, pp 31-37.
- Selth, Andrew, "Burma's Muslims and the War on Terror" *Studies in Conflict & Terrorism* 27(2) (2004): 107-126.
- Smith, Donald, *Religion and Politics in Burma*. Princeton: Princeton University Press, 1965.
- Stephens, Matthew, *Islamic Law in the Philippines: Between Appeasement and Neglect*, ARC Federation Fellowship Policy Paper, Melbourne University, 2011,  
[http://www.law.unimelb.edu.au/files/dmfile/Stephens\\_web2.pdf](http://www.law.unimelb.edu.au/files/dmfile/Stephens_web2.pdf)

- Sulaiman, Mohammed Mohiyuddin Mohammed, 'Islamic Education in Myanmar: A Case Study' in Monique Skidmore and Trevor Wilson (eds) *Dictatorship, Disorder and Decline in Myanmar*. ANU E-Press, 2008.
- Whiting, Amanda, "Secularism, the Islamic State and the Malaysian Legal Profession" *Asian Journal of Comparative Law* 5 (2010) 1-34.
- Whiting, Amanda, "The Training, Appointment, and Supervision of Islamic Lawyers in the Federal Territories of Malaysia" *Pacific Rim Law & Policy Journal* 21(1) (2012): 133-161.
- Yegar, Moshe, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand and Western Burma/Myanmar*. New York: Lexington Books, 2002.
- Yegar, Moshe, *The Muslims of Burma*. Germany: Otto Harrassowitz, 1972.