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S.C. VAN HUIS

Islamic courts and women's divorce rights in Indonesia

This book presents the results of a research about the Islamic courts of Cianjur in West Java, and Bulukumba in South Sulawesi and the role they play in local divorce practices. It addresses questions which not only enhance our understanding of how Islamic courts in Indonesia work, but also of how Islamic courts through their everyday adjudication processes have the potential to transform societal norms based in national family law, Islamic law and customary law.

What is the history of the Islamic courts in both districts and what are its consequences for their position in the local community? What role do the Islamic courts play in protecting women's divorce rights? How do they perform with regard to spousal support, child support and marital property and why? How do the Islamic courts treat women's and men's claims? How has Indonesian family law for Muslims developed and what is the role of the Islamic courts in this development? How are Islamic courts positioned in Indonesia's nation-building project? This book attempts to provide answers to those questions by exploring the Islamic courts' institutional history in both districts, the development of the substantive law they apply, and the socio-cultural and economic aspects of divorce.

The author demonstrates that in order to understand how Islamic courts work, they should be studied as a distinctive judicial tradition that is not only different in character from other judicial traditions but also – and in essential ways – from *fiqh* developed by *ulamas*. In the judicial tradition of the Indonesian Islamic courts it is the judge who transforms doctrine: some issues in rather gender-equal ways and others strictly according to classical Islamic doctrine.

This is a volume in the series of the Meijers Research Institute and Graduate School of Leiden University. The study is a part of the Law School's research programme 'Effective Protection of Fundamental Rights in a Pluralist World' and was conducted at the Van Vollenhoven Institute for Law, Governance, and Development.



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