Islam And Public Law Arab Islamic Law Series

The events of the Arab Spring and recent military coup in Egypt have highlighted the central importance of the constitutional treatment of Islam. Many constitutions in the Muslim world incorporate clauses that make Islamic law supreme or provide that laws repugnant to Islam will be void. The prevalence and impact of these 'Islamic supremacy clauses' is of immense importance for constitutional design - not just for Muslim countries but also for U.S. foreign policy in the region, which became engaged in the issue during constitution-writing in Afghanistan and Iraq. However, to date, there has been no systematic or empirical examination of these clauses. Many questions remain unexplored: Where did these clauses originate? How have they spread? Are they anti-democratic impositions? What determines their adoption in national constitutions? This Article fills this gap. Relying on an original dataset based on the coding of all national constitutions since 1789 and case studies from four countries - Iran, Afghanistan, Egypt and Iraq - it traces the origin and adoption of Islamic supremacy clauses since their first appearance in Iran in 1907. We make three major, counterintuitive claims: First, we argue that the repugnancy clause - the most robust form of Islamic supremacy clause - has its origins in British colonial law, and indeed, that all forms of Islamic supremacy are more prevalent in former British colonies than in other states in the region. Second, we argue that in many cases, these clauses are not only popularly demanded, but are also first introduced into their respective jurisdictions during moments of liberalization and modernization. Third, contrary to the claims of those who assume that the constitutional incorporation of Islam will be antithetical to human rights, we demonstrate that almost every instance of 'Constitutional Islamization' is accompanied by an expansion, and not a reduction, in the rights provided by the constitution. Indeed, constitutions which incorporate Islamic supremacy clauses are even more rights-heavy than constitutions of other Muslim countries which do not incorporate these clauses. We explain the incidence of this surprising relationship using the logic of coalitional politics. These findings have significant normative implications. On a broader level, our work supports the view of scholars who argue that the constitutional incorporation of Islam is not only compatible with the constitutional incorporation of basic principles of liberal democracy, but that more democracy in the Muslim world may mean more Islam in the public sphere; in fact, we find that more democratic countries are not necessarily any less likely to adopt Islamic supremacy clauses. Our findings also suggest that outsiders monitoring constitution-making in majority Muslim countries who argue for the exclusion of Islamic clauses are focused on a straw man; not only are these clauses popular, but they are nearly always accompanied by a set of rights provisions that could advance basic values of liberal democracy. We accordingly suggest that constitutional advisors should focus more attention on the basic political structures of the constitution, including the design of constitutional courts and other bodies that will engage in interpretation, than on the

Islamic provisions themselves.

Arguing Islam after the Rebirth of Arab Politics analyzes the politics of religion in the Arab world after the emergence of new public spheres over the past few decades. The book examines those spheres as they really are, not measuring them against any ideal of democratic deliberation, and show how they are lively and increasingly participatory but also polarizing, divisive, and far from egalitarian. And while they have grown in force, they are not efficacious, leading to a widening gap between regimes and the societies they govern. Focusing on arguments aired in new and old media, neighborhood discussions, and parliaments, Arguing Islam After the Revival of Arab Politics probes in special depth debates over constitution, family law, and education. It shows how these various places where arguments take place are increasingly linked, forming not a uniformed citizenry but instead a badly divided one in which a leader's words to followers are overheard and then lampooned by opponents and various groups become aware of how deeply they differ. Arguments are detached from the authority of the person making them. Without a strong political process to forge agreement and reward coalition building, the reborn Arab politics is exciting and vital but also noisy and rough.

In this meticulously researched volume, Leonard Wood presents his ground breaking history of Islamic revivalist thought in Islamic law. Islamic Legal Revival: Reception of European Law and Transformations in Islamic Legal Thought in Egypt, 1879-1952 brings to life the tumultuous history of colonial interventions in Islamic legal consciousness during the nineteenth and early twentieth centuries. It tells the story of the rapid displacement of local Egyptian and Islamic law by transplanted European codes and details the evolution of resultant movements to revive Islamic law. Islamic legal revivalist movements strove to develop a modern version of Islamic law that could be codified and would replace newly imposed European laws. Wood explains in unparalleled depth and with nuance how cutting-edge trends in European legal scholarship inspired influential revivalists and informed their methods in legal thought. Timely and provocative, Islamic Legal Revival tells of the rich achievements of legal experts in Egypt who disrupted tradition in Islamic jurisprudence and created new approaches to Islamic law that were distinctively responsive to demands of the contemporary world. The story told bears important implications for understandings of Egyptian history, Islamic legal history, comparative law, and deeply contested and highly transformative interactions between European and Islamic thought.

This unparalleled Companion provides a comprehensive and authoritative guide to Islamic law to all with an interest in this increasingly relevant and developing field. The volume presents classical Islamic law through a historiographical introduction to and analysis of Western scholarship, while key debates about hot-button issues in modern-day circumstances are also addressed. In twenty-one chapters, distinguished authors offer an overview of their particular specialty, reflect on past and current thinking, and point to directions for future research. The Companion is divided into four parts. The first offers an

introduction to the history of Islamic law as well as a discussion of how Western scholarship and historiography have evolved over time. The second part delves into the substance of Islamic law. Legal rules for the areas of legal status, family law, socio-economic justice, penal law, constitutional authority, and the law of war are all discussed in this section. Part three examines the adaptation of Islamic law in light of colonialism and the modern nation state as well as the subsequent re-Islamization of national legal systems. The final section presents contemporary debates on the role of Islamic law in areas such as finance, the diaspora, modern governance, and medical ethics, and the volume concludes by questioning the role of Sharia law as a legal authority in the modern context. By outlining the history of Islamic law through a linear study of research, this collection is unique in its examination of past and present scholarship and the lessons we can draw from this for the future. It introduces scholars and students to the challenges posed in the past, to the magnitude of milestones that were achieved in the reinterpretation and revision of established ideas, and ultimately to a thorough conceptual understanding of Islamic law.

Islam and Human Rights
Arguing Islam After the Revival of Arab Politics
History, Concepts and Laws
Modern Challenges to Islamic Law
An Introduction to Islamic Law
Custodians of Change

This book offers a critical analysis of the European colonial heritage in the Arab countries and highlights the way its legacy is still with us today, informing the current state of relations between Europe and the formerly colonized states. The work analyses the fraught relationship between the Western powers and the Arab countries that have been subject to their colonial rule. It does so by looking at this relationship from two vantage points. On the one hand is that of humanitarian intervention—a paradigm under which colonial rule coexisted alongside "humanitarian" policies pursued on the dual assumption that the colonized were "barbarous" peoples who wanted to be civilized and that the West could lay a claim of superiority over an inferior humanity. On the other hand is the Arab view, from which the humanitarian paradigm does not hold up, and which accordingly offers its own insights into the processes through which the Arab countries have sought to wrest themselves from colonial rule. In unpacking this analysis the book

traces a history of international and colonial law, to this end also using the tools offered by the history of political thought. The book will be of interest to students, academics, and researchers working in legal history, international law, international relations, the history of political thought, and colonial studies.
"Proceedings, in part, of a conference convened by the Centre of Islamic and Middle Eastern Law, the Centre of Near and Middle Eastern Studies, and the Law Department of the School of Oriental and African Studies, University of London, jointly with the Institut du monde arabe, Paris. Conference held in London, June 1990"--Title page verso.
This bibliography contains some 1,600 Western-language publications on Islamic law which have appeared between 1980 and 1993.
Written by leading experts in their field, this is the first comprehensive single volume analysis of Islam and public policy in the English language and offers further understanding of Islam and its wider social and political implications.It examines how Sharia law affects public policy both theoretically and in practice, across a wide range of public policy areas, including human rights and family law.The process by which public policy is decided through elections, debates, political processes, and political discourse - has an additional dimension in the Islamic world. This is because Shari'a (divine law) has a great deal to say on many mundane matters of everyday life and must be taken into account in matters of public policy."This pioneering volume goes beyond formalistic analysis of Islamic states and standard discourses of public policy to underscore the actual significance and limitations of the influence of Islamist normative and legalist discourses on key areas of public policy in the Muslim world."Jomo K. S., editor of Islamic Economic Alternatives
Classical and Contemporary Studies : [proceedings, in Part, of a Conference Held in London, June 1990]
Sexual Minorities And Freethinkers In Egypt And Tunisia
Rediscovery and Revival in Islamic Environmental Law
Religion and Politics in the Arab World
Islam Outside the Arab World

The Ulama in Contemporary Islam

Warrant for Terror examines fatwas, which are legal opinions declaring whether a given act under Islam is obligatory, permitted, or forbidden and which serve as a major instrument by which religious leaders impel believers to engage in acts of jihad. This book is published in cooperation with the Hoover Institution.

Islam and International Law explores the multi-faceted relationship of Islam and international law. Current debates on Sharia, Islam and the "West" often suffer from prejudice and platitudes. The book seeks to engage such self-centrism by providing a plurality of perspectives, both in terms of interdisciplinary research and geographic backgrounds.

Today about 85 per cent of the world population of Muslims live in areas outside the Arab world, and due to population growth, missionary endeavours and migration, the number of Muslims in these areas is rising rapidly. This volume presents the spread and character of Islam in many non-Arab countries, focusing particularly on the contemporary situation. The book deals with the great variety and complexity that characterize Islam outside the Arab world, with Sufism (the predominant form of Islam in most non-Arab Muslim countries), and with the growing significance of Islamism which challenges secularism and Sufi forms of Islam.

The history of Islamic law from pre-Islamic times across three centuries.

The Implementation of Islamic Law in Contemporary Aceh, Indonesia

Constitutional Islamization and Human Rights

Engaging Self-Centrism from a Plurality of Perspectives

The Ashgate Research Companion to Islamic Law

Selected Essays of Abdullahi An-Na'im

Islam and Public Law

The common ground between religions could be fruitfully promoted in order to call for an effective protection of the climate system. Positioned at a junction of different worlds, this book is a multidisciplinary work on Islamic law, common law and environmental law. Looking at the past, present and future, the author suggests a paradigm shift starting from the common ground in order to propose a better future for environmental law in Muslim countries. As the first book to compare Shari'a and common law in field of environmental protection, it suggests a new path in comparative environmental law by recognizing the contributions of both history and spirituality.

The book examines the drafting of the Egyptian Civil Code of 1949, exposing its unknown sociological strata, under the leadership of Dr. 'Abd al-Razz?q al-Sanh?r?, one of the most prominent jurist to

emerge to date in the Arab world.

This volume explores the recent decision by Egypt to constitutionalize sharīʿa and analyzes the Egyptian judiciary's attempts to argue that sharīʿa is consistent with human rights. It will interest anyone studying Islamic law, constitutional thought in the Middle East, or Islam and human rights.

Arguing for new consideration of calls for implementation of Islamic law as projects of future-oriented social transformation, this book presents a richly-textured critical overview of the day-to-day workings of one of the most complex experiments with the implementation of Islamic law in the contemporary world – that of post-tsunami Aceh.

Legal Tradition and State Policy Toward International Human Rights and Environmental Law

Legal Traditions in Asia

Image and Reality in Muslim Law and Culture

An Introduction to Al-Islam and Islamic Law

Classical and Contemporary Studies

Women and Shari'a Law

The diversity of interpretation within Islamic legal traditions can be challenging for those working within this field of study. Using a distinctly contextual approach, this book addresses such challenges by combining theoretical perspectives on Islamic law with insight into how local understandings impact on the application of law in Muslim daily life. Engaging with topics as diverse as Islamic constitutionalism, Islamic finance, human rights and internet fatawa, Shaheen Sardar Ali provides an invaluable resource for scholars, students and practitioners alike by exploring exactly what constitutes Islamic law in the contemporary world. Useful examples, case studies, a glossary of terms and the author's personal reflections accompany traditional academic critique, and together offer the reader a unique and discerning discussion of Islamic law in practice. In the West, we tend to think of Islamic law as an arcane and rigid legal system, bound by formulaic texts yet suffused by unfettered discretion. While judges may indeed refer to passages in the classical texts or have recourse to their own orientations, images of binding doctrine and unbounded choice do not reflect the full reality of the Islamic law in its everyday practice. Whether in the Arabic-speaking world, the Muslim portions of South and Southeast Asia, or the countries to which many Muslims have migrated, Islamic law works is readily misunderstood if the local cultures in which it is embedded are not taken into account. With Islam and the Rule of Justice, Lawrence Rosen analyzes a number of these misperceptions. Drawing on specific cases, he explores the application of Islamic law to the treatment of women (who win most of their cases), the relations between Muslims and Jews (which frequently involve close personal and financial ties), and the structure of widespread

corruption (which played a key role in prompting the Arab Spring). From these case studie the role of informal mechanisms in the resolution of local disputes. The author also provides a close reading of the trial of Zacarias Moussaoui, who was charged in an American court with helping to carry out the 9/11 attacks, using insights into how Islamic justice works to explain the defendant's actions during the trial. The book closes with an examination of how Islamic cultural concepts may come to bear on the constitutional structure and legal reforms many Muslim countries have been undertaking.

The public visibility of Islam is becoming increasingly controversial throughout European countries. With case studies drawn from France, Germany, Italy, Spain and the UK, this book examines a range of public issues, including mosque construction, ritual slaughter, Sharia councils and burqa bans, addressing the question of 'Islamic difference' in public life outside the confines of established normative discourses that privilege freedom of religion, minority rights or multiculturalism. Acknowledging the creative role of dissent, it explores the manner in which public controversies unsettle the religious-secular divide and reshape European norms in the domains of aesthetics, individual freedom, animal rights and law. Developing an innovative conceptual framework and elaborating the notion of controversy as a methodological tool, Islam and Public Controversy in Europe draws our attention to the processes of interaction, confrontation and mutual transformation, thereby opening up a new horizon for rethinking difference and pluralism in Europe. As such, it will appeal to scholars across the social sciences with interests in religion, integration, cultural difference and the public sphere.

This study of Islamic law in the final phase of its pre-modern period of existence is based mainly on the fatwa collections of two prominent Arab jurists and one Turkish jurist from this period. The book re-examines the basic methodological structure of Islamic law (including its complex relations with the state) and poses the question as to whether Islamic law became increasingly closed and rigid. It was found that no such closure ever took place. The book will be of importance to those interested in Islamic law, as well as to those interested in Islamic thought in general and the relations between society and the state. Readership: All those interested in Islamic law, the Middle East under the Ottomans, Islam and civil society, Islam and the state.

Humanitarian Intervention, Colonialism, Islam and Democracy

The Incorporation of the Shar??a into Egyptian Constitutional Law

Political Islam

Public Policy Dilemmas

Constitution Writing, Religion and Democracy

A Bibliography of Islamic Law, 1980-1993

Constitutionalism, Human Rights, and Islam after the Arab Spring offers a comprehensive analysis of the impact that new and draft constitutions and amendments - such as those in Jordan, Morocco, Syria, Egypt, and Tunisia - have had on the transformative processes that drive constitutionalism in Arab countries. This book aims to identify and analyze the key issues facing constitutional law and democratic development in Islamic states, and offers an in-depth examination of the relevance of the transformation processes for the development and future of constitutionalism in Arab countries. Using an encompassing and multi-faceted approach, this book explores underlying trends and currents that have been pivotal to the Arab Spring, while identifying and providing a forward looking view of constitution making in the Arab world.

Islamic theocracy is now firmly established in fundamentalist Iran, and waves of fundamentalism are sweeping the entire Islamic world, and its diaspora. This book examines the claim of those Islamists who contend that, as a belief system and a way of life, Islam carries with it a theory of politics and the state which should be applied unquestioningly. Ayubi traces both the intellectual sources and the socio-economic bases of Political Islam, arguing that it is a modern phenomenon, dating back only to the inter-war period. He describes its major proponents as urban, educated and relatively young people, whose energies were mobilised, but whose expectations were not fulfilled by the post-independence `populist' regimes in the Arab World. Islamic movements in six countries are studied in detail. Ayubi's distinctively broad definition of politics encompasses innovative material on sex and the family, and on the emerging alternative economic and social networks of Islamic banks, schools, and hospitals in the countries discussed. Ayubi stresses the traditional concern in Islam for the collective enforcement of morals, but argues that there is no case for the commonly held misconception that politics begins from theological principles in the Arab world: the historical connection between Islam and politics can be explained as an attempt by the rulers to legitimise their actions. He suggests that radical Islamists are reversing this position by subjecting politics to their specific religious views, so their movement is in some senses an anti-state one. He concludes by discussing possible intellectual responses to fundamentalism, drawing on the thinking of contemporary Muslim liberals.

This book presents a comparative analysis of the judiciary in the Islamic, Jewish and Zoroastrian legal systems. It compares postulations of legal theory to legal practice in order to show that social practice can diverge significantly from religious and legal principles. It thus provides a greater understanding of the real functions of religion in these legal systems, regardless of the dogmatic positions of the religions themselves. The judiciary is the focus of the study as it is the judge who is obliged to administer to legal texts while having to consider social realities being sometimes at variance with religious ethics and legal rules deriving from them. This book fills a gap in the literature examining Islamic, Jewish and Zoroastrian law and as such will open new possibilities for further studies in the field of comparative law. It will be a valuable resource for those working in the areas of comparative law, law and religion, law and society, and legal anthropology.

Courts, Codes, and Custom addresses the question of why some states recognize and comply with international human rights and environmental law, while others do not. To address this question, Dana Zartner has developed a novel cultural-institutional theory to explain the manner in which a state's domestic legal tradition shapes policy through the process of internalization. A state's legal tradition - the cultural and institutional factors that shape attitudes about the law, appropriate standards of behavior, and the legal process - is the key mechanism by

which international law becomes recognized, accepted, and internalized in the domestic legal framework. Legal tradition shapes not only perceptions about law, but also provides the lens through which policy-makers view state interests, directly and indirectly influencing state policy. The book disaggregates the concept of legal tradition and examines how the individual cultural and institutional characteristics present within a state's domestic legal tradition facilitate or hinder the internalization of international law and, subsequently, shape state policy. In turn it explains both the differences in international law recognition across legal traditions, as well as the variance among states within legal traditions. To test this theory Zartner compares case studies within five of the main legal traditions in the world today: common law (U.S. and Australia), civil law (Germany and Turkey), Islamic law (Egypt and Saudi Arabia), mixed traditions (India and Kenya), and East Asian law (China and Japan). She addresses the differences among legal traditions as well as between states within the same tradition; the important role that legal culture and history play in shaping contemporary attitudes about law; and similarities and differences in state policy towards human rights law versus environmental law.

Courts, Codes, and Custom

The Origins and Evolution of Islamic Law

Islam, Constitutional Law and Human Rights

Islamic Law and Culture, 1600-1840

Reception of European Law and Transformations in Islamic Legal Thought in Egypt, 1875–1952

Constitutionalism, Human Rights, and Islam After the Arab Spring

This book does not champion some of the popular misconceptions surrounding Islamic law. It does not advocate stoning to death; ampu hands of thieves; call for the death penalty for those who leave the fold of Islam; or urge Muslims to save their souls from Hellfire by s bank loans for fear of incurring interest. What it does advocate is less sensationalistic, but it is in line with the real interpretation of Is law.Contemporary Interpretation of Islamic Law is divided into thirteen chapters. The majority of the chapters concentrate on criminal a Islamic law, while the remainder concern themselves with social issues. Each chapter – where possible – provides background informatio topic under discussion and then proceeds to analyse, examine and critique the contentious parts of the topic, looking at the arguments sides and the evidence put forward by each side before arriving at a conclusion. The book is accompanied by a glossary. "Our work diffe other published titles on Islamic law as it takes into account the different aspects of the Qur'an. The Qur'an employs many parables, alle and metaphors to highlight important messages for Mankind, yet jurists often make the common mistake of either omitting or misinterp these devices, resulting in inaccurate and often unlawful rulings which have direct and indirect effects on both Muslims and non-Muslin is hoped that our work will create a better understanding of the correct interpretation of the Qur'an and Islamic law," says authors Ahr and Hassan Affi. Contemporary Interpretation of Islamic Law will appeal to those with an interest is Islam and Islamic law, though no sp knowledge of Arabic or Islamic law is required.

The relationship between Islam and human rights forms an important aspect of contemporary international human rights debates. Curre international events have made the topic more relevant than ever in international law discourse. Professor Abdullahi An-Na'im is undoub of the leading international scholars on this subject. He has written extensively on the subject and his works are widely referenced in t

His contributions on the subject are however scattered in different academic journals and book chapters. This anthology is designed to
together his academic contributions on the subject under one cover, for easy access for students and researchers in Islamic law and h
Lawyers, according to Edmund Burke, are bad historians. He was referring to an unwillingness, rather than an inaptitude, on the part of
nineteenth-century English lawyers to concern themselves with the past: for contemporary jurisprudence was a pure and isolated scier
law appeared as a body of rules, based upon objective criteria, whose nature and very existence were independent of considerations of
place. Despite the influence of the historical school of Western jurisprudence, Burke's observation is generally valid for Middle East stuc
Muslim jurisprudence in its traditional form provides an extreme example of a legal science divorced from historical considerations. Law
classical Islamic theory, is the revealed will of God, a divinely ordained system preceding, and not preceded by, the Muslim state contro
not controlled by, Muslim society. There can thus be no relativistic notion of the law itself evolving as an historical phenomenon closely
the progress of society. The increasing number of nations that are largely Muslim or have a Muslim head of state, emphasizes the grow
importance of the Islamic world, and, as a result, the desirability of extending and expanding the understanding and appreciation of thei
and belief systems. Since history counts for much among Muslims and what happened in 632 or 656 is still a live issue, a journalistic fa
with present conditions is not enough; there must also be some awareness of how the past has molded the present. This book is desig
reader a clear picture. But where there are gaps, obscurities, and differences of opinion, these are also indicated.
From the cleric-led Iranian revolution to the rise of the Taliban in Afghanistan, many people have been surprised by what they see as th
re-emergence of an anti-modern phenomenon. This book offers a comparative perspective on traditionally educated Muslim scholars (th
Constitutionalism, Human Rights, and Islam after the Arab Spring
Library of Congress Subject Headings
A Comparison of Theory and Practice
The Sanhuri Code, and the Emergence of Modern Arab Civil Law (1932 to 1949)
The Impact of Legal Pluralism in the UK
Documents on Practice from the Ottoman Archives
"Islamic law contains explications and divisions that imply a classification in terms of public and
private law. In this book we will explain the outlines of Islamic public law, e.g. First Chapter;
Islamic constitutional law (al-siyāsah al-shar'iyyah) and administrative law (al-siyāsah al-shar'iyyah);
Second Chapter; penal law (al-ʿuqūbāt); Third Chapter; financial law (zakāt, ʿushr, ḫarāj and other
taxes); Fourth Chapter; trial law (qaḍā), and Fifth Chapter: international public law (al-siyar). The
fields of especially Islamic constitutional law, administrative law, financial law, taʿzīr penalties,
and arrangements concerning military law based on the restricted legislative authority vested by
Sharī'ah rules and those jurisprudential decrees based on secondary sources like customs and traditions
and the public good (maslahah) all fell under what was variously called public law, al-siyāsah al-
shar'iyyah (Sharī'ah policy), qānūn (legal code), qānūnnāmah, 'orfī ḥuqūq etc. Since these laws could
not go beyond Sharī'ah principles either, at least in theory, they should not be regarded as a legal
system outside of Islamic law. But Islamic penal law, financial law, trial law, and international law

depend mostly on rules that are based directly on the Qur'an and the Sunnah and codified in books of fiqh (Islamic law) called Sharī'ah rules, Shar'-i sharīf, or Sharī'ah law. Such rules formed 85% of the legal system. In this book, we will focus on some controversial problems in the Muslim world today, such as the form of government in Islamic law and the relation between Islam and democracy. Islamic law does not stipulate a certain method of state government; nonetheless, we may say that the principles it decrees and its concept of sovereignty suggest a religious republic. As a matter of fact, Ḫulafā al-Rāshidūn (the Rightly Guided Caliphs), were both caliphs and religious republican presidents. We could say that this book has three main characteristics. i) We have tried to base our explanations directly on the primary Islamic law sources. For example, after reading some articles on the caliphate or tīmār system in articles or books by some Western scholars and even by some Muslim scholars, one might conclude that there are different views on these subjects among Muslim scholars. This is not true: Muslisms have agreed on the basic rules on legal subjects, but there are some conflicts regarding nuances and interpretations. If one reads works by Imām Gazzali, Ibn Taymiyyah, al-Māwardi, and al-Farrā', one will not find any disagreement on the main rules, but there are some different interpretations of some concepts. We have tried to discover where they agreed and we have sometimes pointed to where they differed. ii) We have researched practices of Islamic law, especially legal documents in the Ottoman archives. For example, we explain ḥadd-i sariqa but also mention some legal articles from the Ottoman legal codes (qānunnāmes) and some Sharī'ah court decisions like legal decrees (i'lāmāt-i shar'iyyah). It is well known that nobody can understand any legal system without implementing and practicing it. That also holds for Islamic law because theory alone does not yield a complete understanding of Sharī'ah rules. iii) We have worked hard to correct some misconceptions and misunderstandings about Islamic law. That is why we appeal to the primary sources. For example, some scholars claim that the Ḥanafī jurist Imām Saraḫsī did not accept the idea of punishment for apostasy. We have studied his work al-Mabsūt and found this claim to be unfounded. The comparison between tīmār and fief is another example because the tīmār system is different from the fief system. Some scholars confuse the concept of sovereignty and governance. The Islamic state is not a theocratic state in the sense in which Europeans understand the term."

This book explores the challenge of crafting a democratic constitution under conditions of deep disagreement over a state's religious or secular identity.

In response to recent media controversy and public debate about legal pluralism and multiculturalism, Manea argues against what she identifies as the growing tendency for people to be treated as 'homogenous groups' in Western academic discourse, rather than as individuals with authentic voices. Building on her knowledge of the situation for women in Middle Eastern and Islamic countries, she undertakes first-hand analysis of the Islamic shari'a councils and Muslim arbitration tribunals in various British cities.

Based on meetings with the leading sheikhs - including the only woman on their panels - as well as interviews with experts on extremism, lawyers and activists in civil society and women's rights groups, Manea offers an impassioned critique of legal pluralism, connecting it with political Islam and detailing the lived experiences of women in Muslim communities.

This book offers a comparative analysis of traditional Asian legal systems. It combines methods from legal history, legal anthropology, legal philosophy, and substantive law, pursuing a comprehensive approach that offers readers a broad perspective on the topic. The geographic regions covered include the Near East, Middle East, Central Asia, India, China, Japan, and Southeast Asia. For each region, the book first provides historical and political context. Next, it discusses major milestones in the region's legal history and political institutions, as well as its forms of government. Readers are then presented with fundamental principles and terms needed to understand the legal arguments discussed. The book begins with the Ancient Near East and important topics such as Jewish law. The next part considers Islamic law, while also exploring modern issues. The third part focuses on Hindu and Buddhist law, while the fourth part covers China and Japan. The book's closing section examines tribal societies, e.g. Mongols, Pashtuns and Malays. Topics covered include the interaction of legal systems within a legal circle, inter-systemic interactions, reasons for the failure and success of legal modernization, legal pluralism, and its effects on Asian societies. Family law, law of obligation, criminal law, and procedural law are also explored.

Warrant for Terror

An Analysis through the Human-Nonhuman Distinction

Islam and the Everyday World

Contemporary Interpretation of Islamic Law

Fatwās of Radical Islam and the Duty of Jihad

Islam and Public Controversy in Europe

Al-Islam, by linguistic definition, is the state of being at peace and security. It is a house of peace. Al-Sharia is part and parcel of Al-Islam. It is Islamic law. It occupies a central role in the Islamic system, a role designed to insure and protect peace and security for all. Lack of adequate public as well as academic knowledge of and about Al-Sharia is prevalent and is underscored by the inability of thousands of authors in various languages to come to grips with its nature. Most of them define Al-Sharia as religious law. They do so because they interpret Al-Islam as a religion just like Christianity and try to apply to it principles and doctrines that various Christian churches have come either to accept or to reject. A case in point is the doctrine of separation of church and state which, when applied to Al-Islam, serves to de-legitimize Al-Sharia. Hence any call for reinstating Al-Sharia is adamantly rejected as an affront to secularism and modernity. The author, a jurist educated in Western universities, a Doctor of the Science of Law from Columbia University, a former law lecturer, and a well-known human rights defender, demonstrates that Al-Islam is not a mere religion in the Christian sense, but religion and religious worship and belief are parts of it. Al-Islam is a universal system that

cannot be separated from Al-Sharia for Al-Sharia embodies and upholds a number of general principles of law and aims to insure peace and protect all inalienable individual rights cherished by Al-Islam. He compares those rights with rights upheld under the Universal Declaration of Human Rights, the American Declaration of Independence and the French Declaration of the Rights of man and the Citizen. In the process, the author demonstrates how Al-Sharia embodies and upholds a rule of law that ranks above kings and all other sovereigns. He argues that the full application of Al-Sharia, which recognizes the bounds, or hudood, of Allah, does not require the rise of one Islamic State to do the job nor will it prevent Islamic states from co-existing in peace and cooperation with each other as well as with non-Islamic states that are willing and agreeable to joining a peace for all humans without discrimination. The conclusion is inevitable that Al-Islam cannot be itself without Al-Sharia and, therefore, denial of Al-Sharia is, in truth, denial of Al-Islam.

The study of Islamic law can be a forbidding prospect for those entering the field for the first time. Wael Hallaq, a leading scholar and practitioner of Islamic law, guides students through the intricacies of the subject in this absorbing introduction. The first half of the book is devoted to a discussion of Islamic law in its pre-modern natural habitat. The second part explains how the law was transformed and ultimately dismantled during the colonial period. In the final chapters, the author charts recent developments and the struggles of the Islamists to negotiate changes which have seen the law emerge as a primarily textual entity focused on fixed punishments and ritual requirements. The book, which includes a chronology, a glossary of key terms, and lists of further reading, will be the first stop for those who wish to understand the fundamentals of Islamic law, its practices and history.

This book focuses on Islamic constitutionalism, and in particular on the relation between religion and the protection of individual liberties potentially clashing with sharica and the Islamic ethos. The analysis goes from general to particular, starting with a theoretical overview on constitutionalism, human rights and Islam, moving to the assessment of the post-Arab Spring Constitutions of Egypt and Tunisia, and concluding with a specific focus on the rights of sexual minorities and freethinkers. Part I provides a theoretical account of the conception of constitutionalism and human rights in Islam, compared and contrasted with Western constitutionalism. A set of issues where the tension between sharica and human rights is accentuated is analysed against the backdrop of the main Islamic charters of rights. Part II conducts a similar assessment based on the Constitutions of Tunisia and Egypt – the two main epicentres of the Arab Spring. Part III moves to two specific rights in the same countries, from the twofold perspective of the Constitutions and international law: the freedom from interference in one's intimate life, with particular regard to homosexuality; and the freedom of holding and expressing nonconventional beliefs, deemed unacceptable from the point of view of traditional Islam. These issues have been chosen as representative of the most controversial, still considered taboo in both legal and social terms, hence at the fringes of the debate on individual freedoms. Focusing on two overlooked and underexplored issues, the work thus pushes the boundaries of the human rights discourse in Muslim contexts.

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