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Sharia Incorporated

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Published by Leiden University Press

Otto, Jan Michiel.

Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present.

first ed. Leiden University Press, 0.

Project MUSE.muse.jhu.edu/book/46349.



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Glossary

Adat – Custom (Malaysia, Indonesia).

Adat law – Customary law (Indonesia).

Alim (pl. *Ulama*) – Those who have been trained in religious sciences; religious scholar. Also '*Alim*'.

Amir – Traditionally, a military commander, leader, governor. In modern times it denotes membership in the ruling families of the monarchs and means 'prince'.

Amir al-mu'minin – Literally 'commander of the faithful'; title first attributed to the second caliph, Umar ibn Al Khattab (634-644) and adopted by numerous Muslim leaders throughout history, including the king of Morocco. In Sudan called *Qa'id al-mu'minin*.

Awqaf (pl.) – See *waqf* (sing.).

Bad – Dari word for the practice of the exchange of women between families when a crime is committed as compensation for the crime (Afghanistan).

Baraka – Blessing conferred by God upon humankind. In popular Islam manifest in the ability to perform miracles.

Bilad al-siba – Literally 'the area of rebellion (dissidence)'; areas in Morocco that were beyond the scope of control by the central authority.

Caliph – Term adopted by dynastic rulers of the Muslim world; transliteration of *khalifah*, meaning 'successor' referring to the successor of prophet Muhammad as political-military ruler of the Muslim community.

Da'wa – Missionary work; God's way of bringing believers to faith and the means by which prophets call individuals and communities back to God.

Da'wa movement – Missionary movement. Seeks greater application of Islamic laws and values in national life and articulates a holistic Islamic perspective of social, economical and spiritual development. Also *Dakwah* movement (Malaysia; Indonesia).

Dahir – Royal decree (Morocco); legal rule proclaimed as a decree by a sultan.

Darar – Legal term meaning harm, damage, physical or psychological injury. Generally used in the context of divorce; constituting a valid ground for judicial divorce initiated by women. In Iran: '*Osar va haraj*': 'hardship and harm'.

Diyah – See *Diyya*.

Diyaret – Office of Religious Affairs, within the administrative structure of the state as per 1982 (Turkey).

Diyya – Financial compensation payable to the victim or the victim's next of kin in case of a crime against a person, such as homicide, infliction of wounds or battery in place of retribution (*qisas*) Commonly referred to as 'blood money'. Also, *Diya* (Sudan), *Diyah* (Dari, Afghanistan), *Diyat* (Nigeria) *Diyet* (Turkey).

Ejtehād: – See *Ijtihad*.

Faqih (pl. *fuqaha*, *foqaha*) – Expert in Islamic jurisprudence (*fiqh*).

Faskh or *fasakh* – Annulment of marriage based on legally valid grounds.

Fatwa – Legal opinion issued by Islamic religious scholars.

Fiqh – Islamic jurisprudence; the total product of human efforts to understand the divine will. Also *feqh*.

Fuqaha' (pl.) – See *faqih* (sing.).

Gharar – Uncertainty in contracts, prohibited in Islamic law.

Hadana – Care of child by the mother, as distinct from legal guardianship (*wilaya*), which in general belongs to the father. After divorce, in general custody belongs to the mother, at least until the child is considered no longer in need of a woman's care.

Hadd – See *Hudud*.

Hajj – Yearly pilgrimage to Mecca in Saudi Arabia. The *hajj* is one of the five pillars of Islam. All adults, if able, are required to perform it at least once in a lifetime.

Halal – Permissible according to sharia.

Hanafi – Sunni school of jurisprudence.

Hanbali – Sunni school of jurisprudence.

Haram – Forbidden according to sharia.

Hijab – A covering worn by women over other clothing, drawn tightly around the face and draping loosely down to the knees.

Hijra – Emigration of Prophet Mohammed from Mecca to Yathrib (later Medina) in 622 AD. This event marks the beginning of the Islamic calendar.

Hirabah – Violence not sanctioned by Islamic law of war, including *hadd* crimes such as armed robbery, or banditry, as defined under Islamic law. Also, *Hiraba* (the Sudan).

Hisbah – Community morals; by extension the maintenance of public law and order and supervising market transactions.

Hodūd – See *Hudud*.

Hudud (sing. *Hadd*) – Punishments fixed in the Qur'an for crimes considered as violations of God's limits, namely theft, extramarital sex, unproven/wrongful accusation of extramarital sex, armed robbery, consumption of alcohol – and, according to some schools of thought, apostasy; one of four categories of crimes/punishment in Islamic penal law. Also, *Hodud* (Iran); *Hodūd* (Dari); *Hudood* (Pakistan).

'Iddah – Three-month period during which a divorced woman cannot marry another man in order to make sure that she is not pregnant by

her ex-husband. Men are required to continue maintaining their ex-wives when the divorce is revocable (*talaq al-raji*).

Ijbar – Doctrine under Maliki law providing for the overruling power of the father or guardian to act purely (theoretically) in the girl's best interest. In Nigerian context, *ijbar* manifests itself for example in the marrying off of young girls to much older men.

Ijtihad – Independent interpretation of the Quran and Sunna. Traditionally, only allowed when Quran and Sunna are silent on a particular issue. Also *Ejtehād* (Iran, Afghanistan).

Ijma' – Consensus or agreement among religious scholars. One of the four legal sources of Islamic law.

Jezye or *jizyah* – A special poll tax levied from non-Muslims in Islamic societies. Traditionally, meant as a compensation for not entering the military service.

Jihad – 'Struggle' or 'striving', in Islam usually meant in the sense of 'striving in the way of Allah', which may range from personal striving to correct one's own faults to armed warfare against those labeled as unbelievers.

Jinayah – Islamic penal law.

Jirga – local or regional assembly. Took, still take, primary role in dispute settlement for tribal groups (Pakistan, Afghanistan).

Jomhuriyat – Republic, 'republicanism' (Iran).

Kafala – Agreement with third party to financially support a family, in practice a form of adoption, where children retain membership to their original family.

Khalwat – Close proximity between unmarried persons of the opposite sex. Criminal offence under Islamic law in Malaysia, and Aceh, Indonesia.

Khol^f – See *Khul'*.

Khul' – A form of divorce by mutual consent in which the wife asks her husband to repudiate her in exchange for waiver of her financial rights

(e.g. waiver of alimony payments or return/forfeit of dower). Also, *Ibra'* (Egypt); *Khol^e* (Afghanistan); *Khuluk* (Indonesia).

Khuluk: See *Khul'*.

Liwat – Hetero- or homosexual anal intercourse. Also *Lawat* (Iran).

Madhhabs – Muslim schools of jurisprudence.

Madrasa or *Madāres* (Dari), *Madrasah* (Indonesia); *Medersas* (Mali), *Medrese* (Turkey) – Religious schools; religious colleges for higher studies.

Maharim – See *mehrem*.

Mahr – Islamic dowry, part of the 'wife's dues', may be paid at once or split into two payments, one upon marriage and one part later. One of the requirements for a valid marriage.

Majlis – Council. Also *majelis*.

Majlis al-shura – Consultative council, legislative council. See *shura*.

Malik – King.

Maliki – *Sunni school of jurisprudence*.

Marja' (pl. *maraje'*) – Spiritual guide, recognised after a long process of acquiring respect for his teaching and scholarship; especially after qualifying as an *ayatollah* by writing a legal treatise or manual (*resaleh*) – a model for those who have chosen to follow him in religious matters (Iran).

Marja'iyat – Ultimate authority of the *Marja* (Iran).

Marsum – Royal decree.

Maslaha – Public interest; a basis for law. Also *maslahat*.

Medersas – See *madrasa*.

Mehrem – A male relative of a woman who is religiously banned from marrying that woman under any circumstances.

Mecelle or *Mejelle* or *Majalla* – The Ottoman civil code (late 1800s). Although the *Mecelle* only remained in force in Turkey until 1926, in other parts of the former Ottoman Empire it remained in use for much longer. The *Mecelle* codified civil law, excluding family law. The substance of the code was based on the Hanafi legal school (*madhhab*) that enjoyed official status in the Empire. However, using the method of preference (*takhayyur*), it also incorporated legal opinions that were considered more appropriate to the time, including some derived from non-Hanafi *madhhab*.

Misyar marriage – Ambulant marriages, or marriages in which spouses agree that the wife will continue to live with her parents, thus freeing the husband of his obligation to provide marital domicile for her.

Mojāhedīn (or *Mujahidin*) movements – Literally, movements who engage in *jihād*. Refer to Islamic resistant groups. See also *jihād*.

Mojtahed or *mujtahid* – scholar qualified to perform *ijtihād* or independent interpretation of the sources of Islamic law.

Muamalah – Commercial law. Also *muamalat*.

Mufti – ‘Official interpreter of Islamic law’ or a member of the community of religious scholars (the ‘*ulama*), who is competent to give his authoritative legal opinion (*fatwa*) on a particular issue. The term *mufti* can have multiple meanings. In the Egyptian context a state *mufti* refers to the position held by the highest (supreme) advisor on Islamic matters to the state, also known as the ‘grand mufti’. Also *Müftü* (Turkey).

Muhtasib – Holder of the office of *al-hisbah*; market inspector (Morocco). Also see *hisbah*.

Mullah – Islamic cleric. The principle interpreters of Islamic law for Shiis (Afghanistan, Iran).

Musharaka – Generic term in Islamic commercial law for business partnership.

Murabaha – Islamic banking principle in which a bank purchases a good on behalf of the client and later resells it to the client at a marked-up price.

Mudaraba – Legal contractual arrangement under Islamic law between two partners for profit sharing.

Muta' – Obligatory financial compensation to be paid by the husband following the dissolution of marriage on the basis of his repudiation if the wife did not play a role in bringing about the repudiation and did not consent to it. Also *Mut'a* (Sudan, Iran); *Sigheh* (Iran).

Nafaqa – Husband's duty to provide maintenance to his wife and children, at least consisting of housing, food and clothes.

Nasab – Spiritual lineage or genealogy.

Nezām-nāme – See *Nizam* (Saudi Arabia).

Nizam – Ordinance or regulation; order, system, organisation. Intended to infer 'man-made law', as opposed to that deriving from Allah. Compare *qanun*.

Nizamiyye – System of state courts.

Ojrat al-methl – 'Exemplary wages', or monetary compensation for the work a woman has done during marriage (i.e. raising children and housework, which she is not obliged to do by classical jurisprudence) to be paid by the husband, provided that the divorce is not initiated by her and is not caused by any fault of her own (Iran). Compare *muta'*.

Örf – See 'Urf.

Orfi courts – State courts that had jurisdiction over matters involving the state (Iran).

Osr va haraj – See *darar*.

Pancasila – Translating as 'five pillars', Pancasila refers to the five principles of state ideology, mentioned in Indonesia's constitutional preamble.

Panghulu – Religious scholar (Indonesia).

Purdah – The seclusion of women, particularly married women.

Qadhf – Wrongful/slandering accusation of illicit sex (Nigeria), *hadd* crime. Also, *Qazf* (Iran).

Qadi – An Islamic (Muslim) judge charged to apply the sharia in cases brought before him: Also *Khadi* (Malaysia), *Kali*, *Alkali* (Nigeria).

Qanun – Laws and regulations enacted by a government. Originally intended as supplement to Islamic law in matters it left insufficiently regulated. Also *Kanun* (Turkey).

Qes,ās, – ‘Retaliation’ in Dari. Also, *Qisas*, *Qeses*.

Qisas – Retaliation in kind for woundings or killings: an eye for an eye, etc. Also *Qesas* (Iran); *Qes,ās*, (Afghanistan), *Qeses*.

Qiyas – Analogical reasoning. A method to deduct legal prescriptions from the Qur’an and Sunna.

Rajm, *Rajam* or *Rejm* – *Hadd* punishment by stoning of an adulterous woman.

Riba – Arabic for ‘interest’ in fiscal setting. Prohibited in Islamic law.

Ridda – Apostasy from Islam. *Hadd* crime.

Salaf – Early pious Muslim from the first three generations following the time of the Prophet Mohammed, or Islamic forefathers.

Salafiyya movement – Name given to a reform movement led by Jamal al-Din al-Afghani and Muhammad Abduh at the turn of the twentieth century. Emphasised restoration of Islamic doctrines to pure form, adherence to Qur’an and Sunna, rejection of the authority of later interpretations, and maintenance of the unity of the *ummah*. Viewed political and social reforms as essential requirements of revitalisation of the Muslim community. In the late twentieth century, the term came to refer to puritan reformers.

Salafism – See *Salafiyya movement*.

Sariqah – Theft meeting certain conditions under Islamic law. *Hadd* crime. Also, *Sariqa* (the Sudan); *Serqat* (Iran). There are two types: *sariqah al sughra* crimes that are punishable with the amputation of the right hand and *sariqah al kubra* crimes punishable with cross-amputation of the right hand and the left foot.

Shafi'I Sharif (sing.) *ashraf, shurafa* (pl.) – Man claiming descent from prominent ancestors usually the Prophet Mohammed through his grandson Hassan; position of governor (Saudi Arabia).

Shiqaq – Reconciliation procedure after enduring marital discord, providing one of the bases for the dissolution of marriage initiated by women. Two arbiters (*hakam*), one of both families of the spouses, attempt to reconcile the couple. When reconciliation fails the marriage is dissolved.

Shubha – An illicit act that seems a licit one, or legal doubt. In Islamic law a ground to reduce severity of punishment in criminal cases. Under Moroccan law a valid ground for establishment of descent in cases where there is a formal lack of a valid marriage but the couple are maintaining conjugal relations.

Shura – Consultation as basis of governance, based on quranic injunction to Muhammad to consult with his followers. By some religious scholars seen as the Islamic basis for democracy.

Shurb – Drinking wine, and by extension imbibing other intoxicants. *Hadd* crime. Also *Mosker* (Iran).

Siyasa shar'iyya – Regulatory authority of the state as recognised by Islamic law. Also *siyasa, al-siyada*.

Sufism – Islamic mysticism. Sufis strive to constantly be aware of God's presence, stressing contemplation over action, spiritual development over legalism and cultivation of the soul over social interaction.

Sukuk – Islamic bonds. An Islamic product or service now being offered by conventional banks in Saudi Arabia, although traditionally such constructions would not have been permissible, as bonds typically involve interest-based constructions.

Sunna – Traditions and teachings of the Prophet Muhammad.

Ta'azir – See *ta'zir*.

Tafriq – See *tatliq*.

Takaful – Form of insurance that is considered 'sharia compliant'.

Takhayyur – Method of selection of legal sources of Islamic jurisprudence (*fiqh*) that enabled Muslims to follow legal interpretations of Islamic schools of jurisprudence (*madhhab*) other than their own.

T,alaaq – Traditionally, unilateral divorce by the husband without having to produce legal reason, effective upon his pronouncement of the divorce. *Tālaq* that are revocable in the waiting period of the wife (see *iddah*) are called *talaq al-raji*. The third time a *talaq* is uttered for the same marriage becomes irrevocable and is called *talaq al-bain*. Also *T,alāq* (Dari), *Talak* (Indonesia).

Tarbiyah – education.

Tariqat (pl. *tariqas*) – Religious Sufi association. Also *tarekat*, *tarikat*.

Taqlid – Imitation or tradition. Refers to the obligation to conform to a single school of Islamic jurisprudence (in Sunni Islam: the Hanafi, Hanbali, Maliki, and Shafi'i schools).

Tatliq – Judicial form of divorce based on valid grounds, including a breach of the marriage contract. In many countries valid divorce grounds are incorporated in standard marriage contracts. Also *Tafriq*, *taklik*, *takliq*.

Ta'zir offences – Punishment for crime not measuring up to the strict requirements of the *hadd* punishments, although they are of the same nature or those for which specific punishments have not been fixed by the Qur'an. In classical Islamic law, offences defined and punished at the discretion of the *qadi* in particular cases coming before him ('right to censure'). In modern penal law these are defined and the punishments are prescribed by statute. Also *Ta'azir* (Nigeria); *Ta'zirat* (Iran); *Tazir* (Turkey).

'Udul (sing. *'adl*) – Professional Islamic witnesses who write down documents for all matters in which Islamic law applies.

Ulama (sing. *alim*, scholar) – Islamic scholars; those learned in the theology and law of Islam and the literature, mostly in Arabic, proper to these disciplines. Also, '*Ulama* (e.g. Saudi Arabia), *Ulama'* (the Sudan), '*Ulama'* (Morocco).

'*Umma*' – 'Community of all Muslims'.

'*Urf* – Custom. Also *Örf* (Turkey).

Urfi marriages – Unregistered marriages that while often considered valid are not legally recognised by the courts and are thus in legal limbo (Egypt); also ‘unregistered, traditional marriages’ (*‘Urfi*, the Sudan).

Ushr – A religious tax on agricultural proceeds.

Velayat-e faqih (Iran) – Guardianship of the *faqih*, or expert in Islamic jurisprudence.

Wakf – See *waqf*.

Wali – Male guardian for the bride required to make a marriage valid in Islamic law.

Walwar – ‘Bride price’ (Dari), or transfer of money from the groom to the bride’s family. Customary tribal tradition in Afghanistan whereby the groom or his family has to pay to the head of the bride’s household a sum of money (or commodity) to reimburse the parents of the bride for the financial loss they suffered while raising their daughter.

Waqf – A domain constituted into a pious endowment; charitable trust.

Wilaya – Legal guardianship over children. In general held by the father or his family.

Zakat – Required almsgiving that is one of the five pillars of Islam.

Zina – Unlawful sexual intercourse; fornication; adultery. *Hadd* crime, that must be established by testimony of four adult male witnesses. Also *Zena* (Iran).

