

Customary Succession Among Muslims

The classic introduction to Islamic law, tracing its development from its origins, through the medieval period, to its place in modern Islam.

Offers an annotated source for the study of the public and private lives of South Asian Muslim women.

According to Susan Deller Ross, many human rights advocates still do not see women's rights as human rights. Yet women in many countries suffer from laws, practices, customs, and cultural and religious norms that consign them to a deeply inferior status. Advocates might conceive of human rights as involving torture, extrajudicial killings, or cruel and degrading treatment—all clearly in violation of international human rights—and think those issues irrelevant to women. Yet is female genital mutilation, practiced on millions of young girls and even infants, not a gross violation of human rights? When a family decides to murder a daughter in the name of "honor," is that not an extrajudicial killing? When a husband rapes or savagely beats his wife, knowing the legal authorities will take no action on her behalf, is that not cruel and degrading treatment? Women's Human Rights is the first human rights casebook to focus specifically on women's human rights. Rich with interdisciplinary material, the book advances the study of the deprivation and violence women suffer due to discriminatory laws, religions, and customs that deny them their most fundamental freedoms. It also provides

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present and future lawyers the legal tools for change, demonstrating how human rights treaties can be used to obtain new laws and court decisions that protect women against discrimination with respect to employment, land ownership, inheritance, subordination in marriage, domestic violence, female genital mutilation, polygamy, child marriage, and the denial of reproductive rights. Ross examines international and regional human rights treaties in depth, including treaty language and the jurisprudence and general interpretive guidelines developed by human rights bodies. By studying how international human rights law has been and can be implemented at the domestic level through local courts and legislatures, readers will understand how to call upon these newly articulated human rights to help bring about legislation, court decisions, and executive action that protect women from human rights violations. Family law in India has a complex legal structure where different religious communities are guided by their own personal laws, each of which historically evolved under various social, religious, political, and legal influences. In two comprehensive and lucid volumes, Flavia Agnes, a leading activist and advocate in the area, examines family law in the light of social realities, contemporary rights discourse, and the idea of justice. What is unique in these volumes is that the ground level litigation practices around women's rights are interwoven with the critical analyses of the statutory provisions. Relying extensively upon case law, Volume 1 examines: the evolution of the personal laws of Hindus, Muslims, Christians, Parsis, and Jews during the colonial and

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postcolonial periods; how these laws are applied in contemporary questions of marriage, divorce, property rights, and succession; and whether it is possible to bring the law in conformity with modern changes through and in both the formal, and statutory law and the pluralistic and fluid community-based practices. It also extensively examines the role of the judiciary, the political and academic debates around the issue of uniform civil code, and women's citizenship claims in a stratified and hierarchical social order.

In many parts of Africa three different systems of laws are concurrently applied – the imported "Colonial" law, the indigenous customary law and Islamic law. In some countries the customary and the Islamic law are kept separate and distinct, while in others they are fused into a single system. This volume represents a unique survey of the extent to which Islamic law is in fact applied in those parts of East and West Africa which were at one time under British administration. It examines the relevant legislation and case law, much of which has never appeared in any Law Reports; the judges and courts which apply it and the problems to which its application give rise.

This book is about the protection from disinheritance. Regardless of what a person's will might say, the closest relatives usually have a claim to some of the deceased's property. The book explores this issue in a sample of countries in Europe as well as in the USA, Canada, Latin America, China, South Africa, Australia, and New Zealand.

With a [translation and] commentary, by Sir William

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Jones

Leonardo da Pisa, perhaps better known as Fibonacci (ca. 1170 – ca. 1240), selected the most useful parts of Greco-Arabic geometry for the book known as *De Practica Geometrie*. This translation offers a reconstruction of *De Practica Geometrie* as the author judges Fibonacci wrote it, thereby correcting inaccuracies found in numerous modern histories. It is a high quality translation with supplemental text to explain text that has been more freely translated. A bibliography of primary and secondary resources follows the translation, completed by an index of names and special words.

Lawyers, according to Edmund Burke, are bad historians. He was referring to an unwillingness, rather than an inaptitude, on the part of early nineteenth-century English lawyers to concern themselves with the past: for contemporary jurisprudence was a pure and isolated science wherein law appeared as a body of rules, based upon objective criteria, whose nature and very existence were independent of considerations of time and place. Despite the influence of the historical school of Western jurisprudence, Burke's observation is generally valid for Middle East studies. Muslim jurisprudence in its traditional form provides an extreme example of a legal science divorced from historical considerations. Law, in classical Islamic theory, is the revealed will of God, a divinely ordained system preceding, and not preceded by, the Muslim state controlling, but not controlled by, Muslim society. There can thus be no relativistic notion of the law itself evolving

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as an historical phenomenon closely tied with the progress of society. The increasing number of nations that are largely Muslim or have a Muslim head of state, emphasizes the growing political importance of the Islamic world, and, as a result, the desirability of extending and expanding the understanding and appreciation of their culture and belief systems. Since history counts for much among Muslims and what happened in 632 or 656 is still a live issue, a journalistic familiarity with present conditions is not enough; there must also be some awareness of how the past has molded the present. This book is designed to give the reader a clear picture. But where there are gaps, obscurities, and differences of opinion, these are also indicated.

How should we approach the problem of “women and law”? Should the focus be on women-centred laws and their efficacy? Or should the focus be, instead, on the ways in which the law imagines women and the ways in which women have engaged with the law—spilling beyond fields traditionally associated with the phrase “women and law”? And how does violence figure in all these? *Women and Law*, a compilation of 11 insightful essays, examines these questions and a range of concerns—domestic violence, employment and labour, anti-discrimination jurisprudence, family laws, access to forest and land rights, the right to health, the complexities in the intersection of women’s rights with disability rights and women’s experiences of repressive legislation such as TADA. This volume attempts at a fresh mapping of the field of women and law from an

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interdisciplinary perspective and presents the work of activists, lawyers and scholars in conversation.

In India, inheritance laws and social practices systematically deny women ownership of productive resources. In this collection of essays, well-known social scientists critically evaluate existing state laws regarding land ownership. The varied forms of gender discrimination that exist between and within regions, communities, and caste groups are studied. Few women own land, and even fewer effectively control it. The book recommends ways to counter this inequality by challenging laws and sociocultural values that allow discrimination to persist. *Understanding Women's Land Rights* is the XIII volume in the series 'Land Reforms in India', initiated by the Lal Bahadur Shastri National Academy of Administration, Mussoorie. The XI and XIII volumes study gender-unequal land rights in 14 Indian states.

On the seventieth anniversary of Indian independence, Partition, and the creation of Pakistan, this ground breaking collection brings together 14 cutting-edge scholarly essays on multiple aspects of both the region and the issue of Kashmir. While keeping the political dimensions of the dispute over the territory in focus, these innovative essays branch out from the high politics of the conflict to consider less well-known aspects and areas of Kashmir. They examine the continuities and ruptures between Kashmir's past and its present situation; reevaluate the contemporary political scenario from the perspective of gender, economic and political marginality, everyday experiences, and governance; and

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analyze the ways in which the region of Kashmir and its people are represented and (re)present themselves in films and literature through their regional and religious identities, and commodities. This volume aims to understand the limitations of postcolonial nationalism and citizenship as exemplified by the situation in contemporary Kashmir.

This book provides an accessible introductory discussion of issues in Islamic law, justice, and society. At the center of the volume is a discussion of some interrelated theological, historical, legal, and practical issues facing Islamic law in such different countries and regions as Algeria, Morocco, South Africa, and South Asia. This will be a valuable book for students and scholars of Middle Eastern studies, law, and history.

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A Critical Appraisal of Judicial Interpretation in Kashmir
Islamic Family Law
BRILL

An interdisciplinary anthology on the intersections of gender, Islam, and law

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, is a key piece of forest legislation passed in India on 18 December 2006. It has also been called the Forest Rights Act, the Tribal Rights Act, the Tribal Bill, and the Tribal Land Act. The law concerns the rights of forest-dwelling communities to land and other resources, denied to them over decades as a result of the continuance of colonial forest laws in India.

Artikler om praktisering af islamisk familieret i Mellemøsten, Europa, Syd- og Sydøstasien samt Kina.

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Offers comparative historical, anthropological and legal perspectives on the ways in which French and British colonial administrations interacted with the diversity of Islamic legal schools, scholars, and practices in Africa. This is an altogether original work in a virgin field. About two decades ago, the School of Law of the University Of Ghana, introduced the study of Islamic law as an aspect or jurisprudence. The decision was informed by the reality of a significant Muslim segment of the Ghanaian population. It was a brave decision. The halls of academia had never resounded to Islamic law concepts; for up to that point Islamic law was treated as a Cinderella with no place in the legal curriculum, save for a few passing references in regard to marriage and succession laws. Almost single-handedly, I set about developing a corpus of Islamic customary law relevant to the needs of Ghanaian law students. This small volume is the result of efforts to put my thoughts in essay form and to make available to students and the wider public a book-length manual on the nature of Islamic customary law in Ghana. By obtaining and analysing data elicited from community leaders, ordinary Muslims and clerics and evaluating them in the light of settled principles of Sharia law, a distinctly Ghanaian brand of Muslim law emerges. At appropriate points, material derived from court verdicts is interwoven into the text. No attempt has been made here to deal with other systems of Ghanaian family law other than the Islamic. What is here described as Islamic law applies only to those communities where observation reveals that no other form of customary law prevails. A significant part of this work is founded on an earlier publication entitled "A Basis for Islamic Law in Ghana", originally published in the University of Ghana Law Journal in 2005. Although lame parts of that work are produced lock, stock and barrel, readers familiar with the earlier work will

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recognise significant rewriting and reorganisation of the ideas presented in that work. The topics are addressed both to the faithful and to the enquiring student. I have attempted to present the Muslim laws of family, property and succession within a reasonable compass to aid appreciation of the personal laws of substantial numbers of Ghanaians; and in a form that will be clearly understood. Aside from Law 111 and the Marriage of Mohammedans Ordinance, Cap 129 (1951 Rev.), Islamic law has been subject to no comprehensive legislative reform. This is perhaps to be expected as the practised law of Muslims was frequently misunderstood, and hardly recognised and understood by administrators and legislators. My purpose will have been achieved if the following account helps to free Islamic law from misconceptions common in our society.

Anthropology of Law in Muslim Sudan analyses the hybridity of law systems and the plurality of legal practices in rural and urban contexts of contemporary Sudan, shedding light on the complex relation between Islam and society.

The Islamic kingdom of Aceh was ruled by queens for half of the 17th century. Was female rule an aberration? Unnatural? A violation of nature, comparable to hens instead of roosters crowing at dawn? Indigenous texts and European sources offer different evaluations. Drawing on both sets of sources, this book shows that female rule was legitimised both by Islam and adat (indigenous customary laws), and provides original insights on the Sultanah's leadership, their relations with male elites, and their encounters with European envoys who visited their court. The book challenges received views on kingship in the Malay world and the response of indigenous polities to east-west encounters in Southeast Asia's Age of Commerce.

Intestate Succession is the second volume in the *Comparative Succession Law* series which examines the

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principles of succession law from a comparative and historical perspective. This volume discusses the rules which apply where a person dies either without leaving a valid will, or leaving a will which fails to dispose of all of the person's assets. Among the questions considered are the following: What is the nature of the rules for the disposal of the deceased's assets? Are they mechanical or is there an element of discretion? Are particular types of property dealt with in particular ways? Is there entitlement to individual assets (as opposed to money)? Do the rules operate in a parentelic system or a system of some other kind? Are spouses treated more favourably than children? What provision is made for extra-marital children, for adopted children, for step-children? Does cohabitation give rise to entitlement? How are same-sex couples treated? Broader questions also arise of a historical and comparative nature. Where, for example, do the rules in intestate succession come from in particular legal systems? Have they been influenced by the rules in other countries? How are the rules explained and how are they justified? To what extent have they changed over time? What are the long-term trends? And finally, are the rules satisfactory, and is there pressure for their reform? As in the first volume, this book will focus on Europe and on countries which have been influenced by the European experience such as Australia, New Zealand, South Africa, the United States of America, Quebec, and the countries of Latin America. Further chapters are devoted to Islamic Law and Nordic law. Opening with a discussion on Roman law and concluding with an assessment of the overall development of the law in the countries surveyed, this book will provide a wider reflection on the nature and purpose of the law of intestate succession.

Islamic substantive law, otherwise called branches of the law (furu al-fiqh), covers the textual provisions and jurisprudential

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rulings relating to specific transactions under Islamic law. It is to Islamic substantive law that the rules of Islamic legal theory are applied. The relationship between Islamic legal theory and Islamic substantive law is metaphorically described by Islamic jurists as a process of cultivation (*istithmar*), whereby the qualified jurist (*mujtahid*), as the cultivator, uses relevant rules of legal theory to harvest the substantive law on specific issues in form of fruits (*thamarat*) from the sources. The articles in this volume engage critically with selected substantive issues in Islamic law, including family law; law of inheritance; law of financial transactions; criminal law; judicial procedure; and international law (*al-siyar*). These areas of substantive law have been selected due to their contemporary relevance and application in different parts of the Muslim world today. The volume features an introductory overview of the subject as well as a comprehensive bibliography to aid further research.

In this pioneering work Siraj Sait and Hilary Lim address Islamic property and land rights, drawing on a range of socio-historical, classical and contemporary resources. They address the significance of Islamic theories of property and Islamic land tenure regimes on the 'webs of tenure' prevalent in the Muslim societies. They consider the possibility of using Islamic legal and human rights systems for the development of inclusive, pro-poor approaches to land rights. They also focus on Muslim women's rights to property and inheritance systems. Engaging with institutions such as the Islamic endowment (*waqf*) and principles of Islamic microfinance, they test the workability of 'authentic' Islamic proposals. Located in human rights as well as Islamic debates, this study offers a well researched and constructive appraisal of property and land rights in the Muslim world.

Includes articles on Muslims of every age and land, on

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tribes and dynasties, on the crafts and sciences, on political and religious institutions, on the geography, ethnography of the various countries and on the history, topography and monuments of the major towns and cities. Its scope encompasses the old Arabo-Islamic empire, the Islamic countries of Iran, Central Asia, the Indian sub-continent and Indonesia, the Ottoman Empire and all other Islamic countries.

Muslim law and rules for dealing with the distribution of a dead person's property differ greatly from western law. The system of Muslim law, the Shar'ah, is derived from the Qur'an and the words of the Prophet himself, and is therefore believed to be of divine inspiration, and not man-made. A variety of schools of law have grown up which interpret the Prophet's sayings, and the practical effect of these different rules of interpretation varies considerably. Recent codifications have not necessarily remained within the classical Muslim legal traditions, and have introduced further differences. With western law it is assumed that a man will make a will, and, broadly speaking, his property will be distributed in accordance with its provisions. It is only in the event of a man dying without making a will that the rules of intestacy are applied. Muslim law makes the opposite assumption.

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