

KNUT VIKØR

# Between God and the Sultan

A History of Islamic Law

**FOUNDATION**  
B ● ● K S

# CONTENTS

	<i>Preface</i>	<i>page v</i>
1	Introduction: Does Islamic Law Exist? <i>Where is the Islamic law?</i> <i>The methods for studying Islamic law</i>	1 4 12
<b>Part I. THE THEORY OF THE LAW</b>		
2	From Practice to Method <i>Law or tradition</i> <i>Al-Shāfi'ī</i>	20 21 27
3	The Koran and <i>Sunna</i> as Sources <i>Four sources or three levels</i> <i>The Koran</i> <i>Ḥadīth</i> <i>Contradictions between Koran and ḥadīth</i>	31 31 32 38 47
4	Elaborating the Sources: <i>Qiyās</i> and <i>Ijtihād</i> <i>Ijtihād</i> <i>Qiyās</i> <i>ʿIlla</i> <i>How did the qiyās methodology arise?</i> <i>Istihsān: to ignore a qiyās rule</i> <i>The ʿilla and ḥukm become the rule</i>	53 53 54 58 64 65 70
5	Getting Social Sanction: <i>Ijmāʿ</i> and Authorization <i>Ijmāʿ</i> <i>How is ijmāʿ established?</i> <i>Ijmāʿ and the revealed Texts</i> <i>Shāfi'ī's model</i>	73 74 78 85 87
<b>Part II. THE APPLICATION OF THE LAW</b>		
6	The Four Schools of Law <i>Putting the law in writing</i>	89 89

	<i>The schools</i>	94
	<i>Four consensuses</i>	104
	<i>What the dates mean</i>	110
7	Law Beyond the Four Schools	114
	<i>'Proto-Sunnī' currents</i>	114
	<i>Ibādism</i>	120
	<i>Shī'ism</i>	121
	<i>The principles of Shī'ī law</i>	129
8	The Court and the Law: the <i>Muftīs</i> and Legal Development	140
	<i>Fatwās</i>	141
	<i>The muftī, the state and the courts</i>	143
	<i>The process of iftā'</i>	147
	<i>From ijtihād to fatwā</i>	151
	<i>Taqlīd and the rules of the school</i>	156
	<i>Manuals and supplementary works</i>	161
	<i>Other sources for legal practice</i>	165
9	The Court and its Judge: the Role of the <i>Qāḍī</i>	168
	<i>Competence and organization</i>	170
	<i>Standard procedure</i>	173
	<i>Practices of the court</i>	180
<b>Part III. THE HISTORY OF THE LAW</b>		
10	The Court and the State	185
	<i>Non-Sharī'a courts: Maẓālim and shurṭa</i>	189
	<i>Ḥisba and the muḥtasib</i>	195
	<i>Sharī'a and siyāsa courts</i>	198
11	Law and Courts in the Ottoman Empire	206
	<i>Kanun and Sharī'a</i>	207
	<i>The qāḍīs</i>	209
	<i>The muftīs and the şeyhül-islam</i>	212
	<i>Ottoman law in the provinces: Tunisia</i>	217
12	Islamic Law in the Modern Period	222
	<i>Changes after 1800</i>	222

	<i>From kanun to national laws</i>	228
	<i>Reforms in the Ottoman empire</i>	229
	<i>Egypt</i>	231
	<i>Algeria</i>	242
	<i>Africa: Islamic law in British colonies</i>	246
	<i>Traditional states in a modern world</i>	250
13	Implementing the Shari'ca'	254
	<i>Islamism</i>	257
	<i>Shari'ca in practice today: Saudi Arabia</i>	264
	<i>Iran</i>	269
	<i>Sudan</i>	273
	<i>Shari'ca through siyāsa</i>	278
Part IV. SOME AREAS OF THE LAW		
14	Criminal Law	280
	<i>The field of the law</i>	280
	<i>Hudūd</i>	282
	<i>Murder and blood money</i>	287
	<i>Apostasy</i>	291
	<i>Methods of punishment</i>	296
15	Family Law	299
	<i>Marriage</i>	300
	<i>Divorce</i>	309
	<i>Children</i>	316
	<i>Inheritance</i>	318
	<i>Modern adaptations</i>	321
16	Economy, taxes and property	326
	<i>Islamic banking</i>	328
	<i>Taxes</i>	332
	<i>Waqf</i>	339
	Conclusion	345
	<i>Glossary</i>	349
	<i>Bibliography</i>	363
	<i>Index</i>	381