OUTLINES OF ISLAMIC JURISPRUDENCE

Imran Ahsan Khan Nyazee

Contents

CHAPTER I

Introduction

Section I

The Future of Islamic Law 🛛 29

Section II

The Study of Islamic Jurisprudence is an Obligation 31

Section III

The Scope of this Book

□ 32

CHAPTER II

The Scope of Islamic Law and Jurisprudence

Section I

The Subject-matter of Islamic Jurisprudence 37

- A. Uṣūl al-Fiqh ™ 37
- B. *Fiqh* 🖼 38
- C. The Siyāsah Shar'iyyah: Administration of Justice According to the Sharī'ah 🔊 39
- D. Qawā'id Fiqhiyyah: The Principles of Fiqh 🖼 40
- E. Furūq: The Science of Distinguishing Cases 🖙 40
- F. Maqāṣid al-Sharī'ah: Islamic Justice Through the Purposes of the Sharī'ah 🖼 41

- G. Aḥkām al-Qur'ān and Tafsīr № 41
- H. The Discipline of *Khilāf* 42

Has a Variety of Opinions Caused Disunity Among the Muslims? $\bowtie 42$

Section III

The Schools of Law are not Sects but Systems of Interpretation \$\sim 44\$

Section IV

Islam has a Fully Developed and Mature Legal System 🖼 44

CHAPTER III

The Meaning of *Uṣūl al-Fiqh* and Basic Terms

Section I

The Literal Meaning of Figh 🔊 48

Section II

Earlier General Meaning of Figh \$\sim 48\$

Section III

Later Shāfi'ite Definition of Figh 3 49

Section IV

Distinctions Based on the Definition \$\sim 50\$

- A. Distinction between sharī'ah and fiqh \$\sim 51\$
- B. Distinction between mujtahid and faqīh \$\sim 51\$
- C. Distinction between *ijtihād* and *taqlīd* \$\sim 51\$
- D. Distinction between a mugallid and a faqīh 🖙 52

Section V

The Meaning of Aṣl and Uṣūl al-Fiqh $\ ^{12}$ 53

Section VI

Widening the Definitions 54

- A. A Wider Definition of Figh \$\sim 54\$
- B. A Wider Definition of *Uṣūl al-Fiqh* \$\sim 56\$

I The Hukm Shar'ī

59

CHAPTER IV

The Hukm: What is Islamic Law?

Section I

Section II

The Meaning of the Ḥukm Sharʻī or the Meaning of Islamic Law 🔊 62

Section III

The Ḥukm Taklīfī (Obligation Creating Rules) 🖙 65

Section IV

The Hukm Wap'ī—Declaratory Rules 🔊 67

Section V

The Distinction Between the Ḥukm Taklīfī and the Ḥukm Wadʻī $\ ^{\mbox{\tiny LSF}}$ 68

CHAPTER V

Classification of Islamic Law

Section I

A. The *hukm* or rule for the $w\bar{a}jib \approx 72$

Advanced Legal Studies Institute

©Imran Ahsan Khan Nyazee

- B. Classification based on the extent of the required act 376
- C. Classification based on the subjects who are required to perform \$\sim 76\$
- D. Classification based on the identification of the object of the required act \$\sim\$ 77

Section III

The Meaning of Mandūb (Recommended Act) and its Different Types $\ ^{18}$ 78

A. Types of Mandūb 3 79

Section IV

The Meaning of Harām (Prohibited Act) and its Different Types 80

A. The types of *harām* 81

Section V

The Meaning of Makrūh (Disapproved Act) and its Different Types 83

Section VI

The Meaning of Mubāḥ (Permitted Act) and its Different Types 🔊 84

Section VII

The Hukm Wad'ī or the Declaratory Rule 85

- A. Sabab, shart and māni' 🖼 85
- B. *Şiḥḥah*, *fasād* and *buṭlān* (validity, vitiation and nullity) 🖙 87
- C. 'Azīmah and rukhsah (initial rules and exemptions) 88

CHAPTER VI

The Lawgiver (*Hākim*)

Section I

Section II

The Fundamental Norm of the Legal System 92

Section III

The Law and the Interest of Man 93

- A. Is Man the sole purpose of creation?

 94
- B. Can we employ *maslahah* (interest) for new laws? \$\square\$ 95

Section IV

Are the Sharīʻah and Natural Law Compatible? 🔊 95

CHAPTER VII

The Act ($Mahk\bar{u}m F\bar{\iota}h$)

Section I

The Conditions for the Creation of Obligation (Taklīf) $\bowtie 100$

- A. The act to be performed or avoided must be known 100
- B. The subject should be able to perform the act 101

Section II

The Nature of the Act (Mahkūm Fīh) 🔊 101

Section III

Classification of the \Dot{H} ukm Takl \Dot{I} f \Dot{I} on the Basis of Rights \Dot{I} 103

Section IV

CLASSIFICATION OF DUTIES: ORIGINAL AND SUBSTITUTORY \$\infty\$ 105

Section V Human Rights and Other Classifications 106

CHAPTER VIII

The Subject (Mahkūm 'Alayh)

Section I

Ahlīyah or Legal Capacity

□ 110

Section II

THE UNDERLYING BASES OF LEGAL CAPACITY 111

Section III

COMPLETE CAPACITY 🖼 112

A. The stages leading to complete legal capacity 🖼 114

Section IV

Deficient and Imperfect Capacity 114

- A. Cases of deficient legal capacity 115
- B. Cases of Imperfect Capacity 119

CHAPTER IX

Causes of Defective Legal Capacity

Section I

Natural causes of defective capacity 124

- A. Minority (sighar) 🖙 124
- B. Insanity (junūn) 🖙 125
- C. Idiocy ('atah) 125
- D. Sleep and fits of fainting (nawm, ighmā') 🖙 126
- E. Forgetfulness (nisyān) 126
- F. Death-illness (marad al-mawt) 126

Acquired Causes of Defective Capacity 129

- A. Intoxication (*sukr*)

 □ 129
- B. Jest (*hazl*) \$\sim 131\$
- C. Indiscretion (safah) 132
- D. Coercion and duress (ikrāh) 132
- E. Mistake and ignorance (*khata*', *shubhah*, and *jahl*) 🖼 135

II The Sources of Islamic Law

139

CHAPTER X

The Primary Sources of Islamic Law

Section I

The Distinction Between Primary and Secondary Sources 141

Section II

Grades of the Sources □ 142

Section III

The Qur'ān 🖙 146

- A. The Recording and Revelation of the Qur'ān 🖼 147
- B. The *Aḥkām* in the Qur'ān

 □ 148

Section IV

The Sunnah 🖼 150

- A. Kinds of Sunnah 🖼 151
- B. Conditions imposed by jurists for acting upon the *muttasil hadīth* 155

Section V

Status of the Sunnah With Respect to the Qur'ān 🔊 156

Section VI

Consensus of Legal Opinion (IJMĀ') 🖙 159

- A. Conditions for the Validity of *Ijmā* ' 159
- B. Types of *ijmā* ' ™ 161
- C. The legal force of $ijm\bar{a}$ as a source 161
- D. Role of *ijmā* 'in the modern world № 162

CHAPTER XI

Secondary Sources

Section I

Qiyās (Analogy) 🖙 165

- A. Elements of *qiyās* 🖼 166
- B. Examples of qiyās 🖼 166
- C. Qiyās jalī and qiyās khafī or manifest and concealed analogy \$\infty\$ 168

Section II

Istiḥsān (Juristic Preference) 🖙 169

A. Examples of *istiḥsān* 🖼 170

Section III

Istiṣṇāb (Presumption of Continuity) 🖙 171

A. *Istiṣḥāb al-ḥāl* and the Islamization of laws 🖼 173

Section IV

Maşlahah Mursalah (Extended Analogy) 🖙 173

A. Illustrations of maşlahah mursalah 🖼 174

Section V

Sadd al-Dharīʻah (Blocking the Lawful Means to an Unlawful End) 🔊 175

Section VI

Opinion of a Companion (Qawl al-Ṣaḥābī) 🖙 176

Earlier Scriptures (Shar' Man Qablanā) 🔊 177

A. Types of earlier laws 🖙 177

Section VIII

Custom ('Urf) □ 178

- A. Types of 'urf 179
- B. Can the Western laws prevalent in Pakistan be treated as custom? 180

Section IX

ISLAMIC LAW AND ROMAN LAW 🔊 181

CHAPTER XII

Maşlahah and the Maqāşid al-Sharī'ah

Section I

The Meaning of Maslahah (Interest) 🖙 183

Section II

Maqāṣid al-Sharīʻah or the Purposes of Islamic Law 🚳 184

Section III

What is Beyond the Purposes?

□ 185

Section IV

 $Maq\bar{a}$ sid al-Sharīʻah and the Texts 186

Section V

The Nature and Structure of the Maqāṣid 🔯 186

- A. Primary purposes in the service of the Hereafter 186
- B. The two faces of the $maq\bar{a}sid$ \bowtie 188
- C. Primary and secondary purposes 189
- D. Priorities within the maqāṣid 🖼 191

III Ijtihād and Taqlīd

195

CHAPTER XIII

The Meaning of Ijtihād and its Modes

Section I

The Meaning of Ijtihād 🖙 197

Section II

The Task of the Mujtahid № 198

Section III

The Modes of Ijtihād ■ 198

Section IV

The Complete Process of Ijtihād 🔊 199

Section V

Section VI

Who is a mujtahid today?

□ 201

Section VII

ABROGATION (NASKH) S\$\infty\$ 202

Section VIII

The Rules of Preference (Tarjīḥ) 🖙 203

CHAPTER XIV

Taqlīd or Juristic Method

Section I

Taqlīd in the Pakistani Legal System 🖙 206

IV Islamic Business Law and Property

209

CHAPTER XV

Property and Ownership

Section I

The Nature of Property and Ownership 3211

- A. Ownership (milkīyah) and possession (milk al-yad) 3 211
- B. Types of ownership 212
- C. Possession № 213

Section II

The concepts of property (māl) and ownership (milk) \$\sim\$ 214

Section III

The different classifications of Māl 🖙 216

CHAPTER XVI

General Principles of Contract

Section I

Function of Contracts in Islamic Law 219

Section II

The Meaning of 'AQD S 220

Section III

Agreement and its Form (Şīghah)

□ 220

- A. The meaning of $\bar{i}j\bar{a}b$ (offer) and $qab\bar{u}l$ (acceptance) ≈ 221
- B. The conditions of offer and acceptance ($s\bar{i}ghah$) ≈ 222
- C. Termination of the offer $(\bar{i}j\bar{a}b)$ ≈ 224

Section IV

Consideration and Islamic law of contracts 225

A. The *maḥall* (subject-matter) and legality 🖙 225

Advanced Legal Studies Institute

©Imran Ahsan Khan Nyazee

Section V

LEGALITY OF CONTRACTS IN ISLAMIC LAW 226

- A. Contracts contrary to Islamic law (shar') 🖙 227
- B. Contracts contrary to public policy 228
- C. The effect of illegality 229

Section VI

CONTRACTUAL CAPACITY S 230

Section VII

Genuineness of Assent □ 230

- A. Mistake (khata' or shubhah not ghalat) 🖙 231
- B. Khilābah, taghrīr, tadlīs, ghabn—fraudulent misrepresentation
- C. Undue influence and marad al-mawt № 234
- D. Coercion and duress (ikrāh) 3 235

Section VIII

Types of Contracts and Their Effects 235

- A. Ṣaḥīḥ, bāṭil and fāsid contracts 🖙 235
- B. Immediate and suspended contracts or *nāfidh* and *mawqūf* contracts \$\sim 237\$
- C. Binding and terminable contracts or the $l\bar{a}zim$ and $ghayr\ l\bar{a}zim$ (or $j\bar{a}'iz$) contracts ≈ 238
- D. Bilateral contracts versus unilateral contracts (wa'd) 🖼 238
- E. Valid, void, voidable and unenforceable contracts 🖼 239
- F. Executed and executory contracts 239

Section IX

Option (Khiyār) and the Effects of Contracts 240

- A. Khiyār al-Sharṭ or the Option to Revoke the Contract 240
- B. *Khiyār al-Taʻyīn* or the Option to Ascertain the Subject-matter

 Subject-matt
- C. Khiyār al-Ru'yah or the Option of Examination 241
- D. *Khiyār al-'Ayb* or the Option of Defects 🖼 241

Advanced Legal Studies Institute

Section X

THIRD PARTY RIGHTS AND DISCHARGE OF CONTRACT 242

- A. Assignments and delegations 🖙 242
- B. Conditions of performance \$\sim 243\$
- C. Discharge of contract № 244

Section XI

Breach and Remedies 🖙 247

- A. Specific performance—*ijbār* № 247
- B. Rescission and Restitution (faskh and irjā') 🖙 247
- C. Reformation \$\sim 247\$
- D. Recovery based on quasi contracts 🖼 248
- E. Principles of compensation and damages 248

CHAPTER XVII

Delegated Authority

Section I

Guardianship (Wilāyah) 5 251

- A. Types of Wilayah 🖼 251
- B. Grades of the awliyā' 🖙 252
- C. The extent of the $wal\bar{i}$'s authority ≈ 253

Section II

AGENCY (WAKĀLAH)

□ 254

- A. The elements of wakalah 3 254
- B. Types of agency

 □ 255
- C. The *aḥkām* of *wakālah* № 256
- D. Hukm of the contract and its huquq see 256
- E. Termination of agency ≈ 257

Section III

Ratification and the Acts of the Fupūlī $\ ^{12}$ 257

A. The hukm of the acts of a fudūlī 🖼 258

Advanced Legal Studies Institute

©Imran Ahsan Khan Nyazee

B. Conditions for ratification № 258

CHAPTER XVIII

Commercial Transactions

Section I

The Meaning of Bay' and its Types 261

A. The basic types of bay' 261

Section II

General Conditions for Commercial Transactions 262

- A. It must be $m\bar{a}l \approx 263$
- B. The subject-matter must be in existence at the time of the contract $\stackrel{\text{\tiny LS}}{\sim} 266$
- C. The seller must have the capacity to deliver the subject-matter 267
- D. The parties must have knowledge of the subject-matter 268

Section III

SALE OF GOODS FOR CASH \$\sim 270\$

- A. The spot sale 270
- B. Credit sale (bay 'al-nasī'ah) 🖼 271
- C. Advance payment (salam) 3 271
- D. Goods made to order (istiṣnā') 🖙 272
- E. Sale with earnest money ('arbūn) \$\sim 272\$
- F. Contract for supplies (tawrīd) 🖙 273
- G. Sale with stated profit (murābahah) 🖙 273
- H. Sale at cost price (tawlīyah) s 274
- I. Sale at less than cost price (wadī'ah) 3274

Section IV

Loans and Exchange of Currencies (Sarf) 🖙 274

Section V

THE PROHIBITION OF RIBĀ AND COMMERCIAL

Transactions 🖙 276

A. The four rules of $rib\bar{a} \approx 276$

Section VI

Section VII

The Contract of Hire (ijārah) 🖙 279

- A. The conditions of *ijārah* 🖙 280
- B. Types of *ijārah* 🖼 281

Section VIII

GENERAL OFFERS (Ju'ālah) 🖙 281

CHAPTER XIX

Security of Debts, Insolvency and Interdiction

Section I

The Meaning of Debt. 'Ayn, Dayn, and Istiqrāp 🖼 283

Section II

Assignment and Negotiation \$\sim 286\$

Section III

Ḥawālah and Muqāṣṣah (Assignment, Transfer of Debt) ☞ 286

- A. Hawālah and negotiable instrument 286
- B. Muqāṣṣah (Claim-swapping) 🖙 287

Section IV

Kafālah (Surety) 🖙 287

Section V

Rahn (Pledge, Mortgage, Collateral) 🖙 288

Section VI BAY' AL-WAFĀ' 🔊 289

Section VII
EXTINCTION OF RIGHTS (IBRĀ') S 290

Section VIII
TAFLĪS (INSOLVENCY, BANKRUPTCY)
\$\mathbb{R}\$ 290

Section IX
Interdiction (Hajr) \$\sim 292\$

A. Types of *hajr* № 292

CHAPTER XX

Acquisition of Property and Liens

Section I

Acquisition and Disposal of Property 395

Section II

Modes of acquisition of property 296

- A. Contracts and declarations 3 296
- B. Claim as a third party (*Istihqāq*) and restitution \$\sim 297\$
- C. Pre-emption (Shuf'ah) \$\sim 297\$
- D. Revival of Barren Land (*Ihyā' al-Mawāt*) \$\sim 298\$
- E. *Ḥimā* and *Iqṭā* ' (Estates) ≈ 299
- F. Ma'ādin (Minerals) 🖙 299
- G. Found Property (Luqtah) \$\sim 300\$
- H. Prizes or Prize Money (Sabq) 301
- I. Property of the *mafqūd* (missing person)

 □ 301

Section III

Liens 🖙 302

- A. Leaseholds (*ijārah*, *kirā*') 🖙 302
- B. Wadī'ah (deposit, bailment) ™ 302

Advanced Legal Studies Institute

C. Rights in the property of others: easements and servitudes $(irtif\bar{a}q)$ ≈ 302

Section IV

Partitioning of Property (Qismah) 🖙 303

CHAPTER XXI

Enterprise Organization

Section I

Definition of Partnership 🔊 307

Section II

Types of Partnerships 307

- A. Types of partnership according to the majority \$\sim 308\$
- B. Types of partnership according to the Hanafis 308

Section III

The 'Inān Partnership 🖙 309

Section IV

The Mufāwadah Partnership 🔊 310

Section V

Muṇārabah ☞ 311

A. The Conditions of Mudārabah 🖼 312

Section VI

Muzāra'ah (Share-cropping) ™ 313

Section VII

 $Mus\bar{a}q\bar{a}h$ or $Mu'\bar{a}malah$ 314

Section VIII

Corporations and Islamic Law 315

V The Islamic Law of Persons

317

CHAPTER XXII

Marriage

Section I

The hukm of marriage

□ 319

Section II

Looking at the Would be Spouse Before Proposal 🖙 320

Section III

The Formation of the Contract 320

- A. Consent in marriage (legal capacity) 320
- B. Whose consent? Guardian's? 321
- D. Stipulating an option (khiyār) 324

Section IV

Witnesses (Shahādah) 🖼 324

Section V

Dower (Ṣaṇāq) □ 325

- A. Dower amount \$\sim 325\$
- B. Species and void dowers 326
- C. Deferred and prompt dower 326
- D. Dower and divorce prior to consummation 327

Section VI

Impediments to Marriage

□ 328

- A. Lineage 329
- B. Relationship Through Marriage 329
- C. Fosterage (Suckling; Wet-nursing) 330
- D. Unlawful Intercourse (Zinā) 330

Advanced Legal Studies Institute

- E. Number of Marriages 331
- F. Combination \$\sim 331\$
- G. Disbelief (Kufr) 🖼 331
- H. The Ritual State of *Iḥrām* 332
- I. Illness 🖼 332
- J. 'Iddah (Waiting Period) 🖙 333

The Requisites of Option in Marriage 333

- A. The Option of Defects 333
- B. Option on Inability to Pay Dower and Maintenance 334
- C. Option Upon Absence 334

Section VIII

MARITAL RIGHTS AND THE RESTITUTION OF CONJUGAL RIGHTS \$\mathbb{R}\$ 335

- A. Maintenance 🖼 335
- B. Polygamous marriage 336
- C. Nursing and taking care of the house 336

Section IX

Hidānah (Hizānat in Urdu) 337

Section X

Marriages Prohibited by Law and Void Marriages 338

CHAPTER XXIII

Divorce and Separation

Section I

THE KINDS OF DIVORCE (ṬALĀQ) 🖙 341

- A. Bā'in and Raj'ī Divorces ™ 341
- B. Sunnah and Bid'ah Forms of Divorce 342
- C. Khul' (Redemption) 🖙 343

Tafwīd, Takhyīr and Tamlīk 🖙 344

Section III

RETRACTION AFTER DIVORCE 345

Section IV

Waiting Period ('Iddah) 346

Section V

Gift of Consolation Paid to a Divorced Woman (Mut'ah) 348

Section VI

Appointment of Arbitrators 349

Section VII

Mourning (IḤdād) ► 350

Section VIII

Vow of Continence (Īlā') ™ 350

Section IX

Injurious Assimilation (Zihār) 🔊 351

Section X

Imprecation (Li'ān)

□ 352

CHAPTER XXIV

Inheritance, Bequests and Trusts

Section I

Inheritance ™ 355

- A. The aṣḥāb al-farā'id or sharers 356
- B. The *aṣabāt* or residuaries 357
- C. The *dhawū'l-arḥām* or distant kindred [™] 357

Advanced Legal Studies Institute

D. The doctrine of *hajb* or exclusion 358

Section II

Waṣīyah (Bequest)

□ 359

Section III

Gift (Hibah) ■ 360

Section IV

'Ārīyah (commodate loan) and qard (cash loan) 362

Section V

Waqf (Charitable Trust) 363

- A. The Meaning and Rules of Waqf 363
- B. The destruction of $awq\bar{a}f$ in the modern times 364

VI The Islamic State and Public Law

367

CHAPTER XXV

The Islamic State and its Duties

Section I

Section II

Section III

Amr bi al-Maʻrūf wa Nahy ʻan al-Munkar—The Call for Justice $\ ^{188}$ 375

Section IV

THE ISLAMIC STATE AND DEMOCRACY 377

Section V

Democracy and the concept of $Sh\bar{u}r\bar{a}$ $\ ^{13}$ 377

- A. The Verses and Meaning of *Shūrā* 378
- B. Is *Shūrā* a Binding Rule? \$\sim 379\$
- C. Is the Recommendation of the *Shūrā* Binding? 379
- D. Is it a Pillar and Does it Imply Democratic Principles? 379
- E. At What Levels Can it be Applied? 380
- F. Does it Imply an Absolute Benevolent Ruler? 380

Section VI

The Islamic state and the economic system 380

CHAPTER XXVI

Crimes and Torts

Section I

The aims of the criminal law 384

Section II

CLASSIFICATION OF CRIMES IN ISLAMIC LAW 384

- A. Classification on the basis of the right affected: hadd, ta'zīr and siyāsah \$\sim\$ 385
- B. Differences between ta'zīr and siyāsah 🖙 387

Section III

- A. *Ḥadd* Penalties 🖼 389
- B. *Jināyat* (bodily injuries) and *qiṣāṣ* \$\square\$ 392
- C. $Ta'z\bar{\imath}r$ or penalties imposed by the state 395
- D. Siyāsah shar'īyah or the administration of justice 397
- E. Ghasb (Usurpation, Misappropriation) 398
- F. Destruction of Property (*Itlāf*) \$\sim 399\$

CHAPTER XXVII

War and Fiscal Laws

Section I

Jihād and Truce

□ 401

Section II

THE AHKĀM OF ENEMY PROPERTY \$\infty 404\$

- A. The fifth of the spoils (*khums*) $\bowtie 404$
- C. The anfal (rewards) \$\sim 406\$
- D. Muslim property recovered from disbelievers \$\sim 407\$
- E. Land conquered by the use of force ('anwatan) \$\sim 408\$
- F. Fay' (booty) 🖼 409
- G. Jizyah (poll-tax) 🖙 409

Section III

Zakāt and 'Ushr 🖼 410

- A. Wealth of minors \$\sim 410\$
- B. Those under debt 3 411
- C. Wealth liable to *zakāt* 411
- D. Holding period for wealth \$\sim 412\$
- E. Those entitled to *zakāt* 413

CHAPTER XXVIII

Courts, Procedure and Evidence

Section I

Courts 🖼 415

- A. Mazālim Courts 🖙 415
- B. Court of the $Q\bar{a}d\bar{\iota}$ \bowtie 416
- C. Court of the *Muḥtasib* 3 416

Adab al-qādī:

□ 416

- A. Qualifications of the $q\bar{a}d\bar{\iota}$: \bowtie 417
- B. Jurisdiction \$\sim 418\$
- C. Procedure \$\sim 418\$
- D. Evidence \$\sim 420\$
- E. Qualifications of a Competent Witnesses 🔊 424
- F. Women as Competent Witnesses 325

CHAPTER XXIX

Islamic Law and Human Rights

VII History of Islamic Law and its Schools

433

CHAPTER XXX

The Islamic Legal Heritage

Section I

Nature of Pre-Islamic Law 435

Section II

The First Period 🖼 436

- A. The Qur'an \$\sim 436\$
- B. The Sunnah 🖼 436
- C. Fiqh № 437
- D. Changes in society \$\sim 437\$
- E. Compilation 🖙 437

Section III

The Second Period: al-Khulafā' al-Rāshidūn 🖼 438

A. Sources of law \$\sim 438\$

Section IV

The Third Period: Tābi'ūn (Followers) 🖙 438

- A. Sources of figh \$\sim 438\$
- B. Narration of Traditions \$\sim 439\$
- C. The Rise of the Early Schools \$\sim 439\$

Section V

The Fourth Period: Growth 🔊 440

- A. Growth and compilation of figh \$\sim 440\$
- B. Compilation of the Sunnah 🖼 441
- C. Compilation of *tafsīr* \$\sim 442\$

Section VI

The Fifth Period: The Maturing of the Legal System

■ 443

Section VII

The Sixth Period: The Age of Qānūn and Codification 443

- A. The Ottoman *Qānūn* \$\sim 444\$
- B. The Mughal Empire 🖼 444

Section VIII

The Seventh Period: Colonization and After 🖙 445

Section IX

The Age We Live in Today 🔊 446

CHAPTER XXXI

The Schools of Islamic Law

Section I

The Hanafī School 🖼 449

- A. Abū Hanīfah: The Founder \$\sim 450\$
- B. Jurists of the School \$\sim 450\$

- C. Early works of the School \$\sim 450\$
- D. Influence of the School 🖼 451
- E. The Hanafī School and legal theory \$\sim 451\$

The Mālikī School

□ 452

- A. Mālik ibn Anas: The Founder 🖼 452
- B. Jurists of the School \$\sim 453\$
- C. Mālikī School and legal theory 454

Section III

The Shāfi'ī School

□ 455

- A. Muḥammad ibn Idris al-Shāfi 'ī: The Founder 🖙 455
- B. Jurists of the School 🖼 456
- C. Shāfi'ī School and legal theory \$\sim 456\$

Section IV

The Hanbalī School 🔊 457

- A. Aḥmad ibn Ḥanbal ibn Asad al-Shaybanī: The Founder 🖙 457
- B. Jurists of the School \$\sim 458\$
- C. Hanbalī School and legal theory \$\sim 458\$

Section V

THE EXTINCT SCHOOLS \$\sim 459\$

- A. The Awzā'ī School 🖙 459
- B. The Zāhirī School 🖼 459
- C. The Ṭabarī School 🖼 460

CHAPTER XXXII

The Function of a School of Law and the Hierarchies

Section I

The Primary Function of a School of Law 461

The Resources of the School: Jurists, Issues and Texts \implies 462

- A. The Hierarchy of Jurists Within a School 🖼 462
- B. The Hierarchy of Issues Within a School \$\sim 465\$
- C. The Hierarchy of Texts Within a School 🔊 467

CHAPTER XXXIII

Geographical Distribution of Schools and the Bond Between Them

Section I

Geographical Distribution of Schools \$\sim 473\$

Section II

The Integral Bond Between the Four Sunni Schools 🔊 474

Select Bibliography

Glossary