

CULTURAL DIVERSITY AND LAW



Muslim Marriage in Western Courts

Lost in Transplantation



Pascale Fournier

Muslim Marriage In Western Courts Cultural Diversity And Law

Mavis Maclean, John Eekelaar



Muslim Marriage In Western Courts Cultural Diversity And Law:

Muslim Family Law in Western Courts Elisa Giunchi, 2014-03-26 This book focuses on Islamic family law as interpreted and applied by judges in Europe Australia and North America It uses court transcriptions and observations to discuss how the most contentious marriage related issues consent and age of spouses dower polygamy and divorce are adjudicated The solutions proposed by different legal systems are reviewed and some broader questions are addressed how Islamic principles are harmonized with norms based on gender equality how parties bargain strategically in and out of court and how Muslim diasporas align their Islamic worldview with a Western normative narrative Muslim Marriage in Western Courts Pascale Fournier, 2016-04-29 This book describes and analyses the notion of Mahr the Muslim custom whereby the groom has to give a gift to the bride in consideration of the marriage It explores how Western courts specifically in Canada the United States France and Germany have approached and interpreted Mahr Although the outcomes of the cases provide an illustrative framework for the book the focus is broader than simply the adjudicative endeavours The work explores the concept of liberalism which purportedly champions individuals and individual choice concurrently with freedom and equality Tensions between and among these concepts however inevitably arise The acknowledgment and exploration of these intertwined tensions forms an important underpinning for the book Through the analysis of case law from these four countries this study suggests that transplanting Mahr from Islamic law into a Western courtroom cannot be undone it immediately becomes rooted in the countries legal historical political and social backgrounds and flourishes or fails in diverse and unexpected ways Rather than being the concept described by classical Islamic jurists Mahr is interpreted according to wildly varied legal constructs and concepts such as multiculturalism fairness public policy and gender equality Moreover Islamic law travels with a multiplicity of voices and it is this complex hybridity a fragmented and disjointed Mahr which will be mediated through Western law Returning to the overarching concept of liberalism the book proposes that distributive consequences rather than recognition occupy central place in the evaluation of the legal options available to Muslim women upon divorce Muslim Families, Politics and the Law Ralph Grillo, 2016-03-09 Contemporary European societies are multi ethnic and multi cultural certainly in terms of the diversity which has stemmed from the immigration of workers and refugees and their settlement Currently however there is widespread often acrimonious debate about other cultural and religious beliefs and practices and limits to their accommodation This book focuses principally on Muslim families and on the way in which gender relations and associated questions of women s agency consent and autonomy have become the focus of political and social commentary with followers of the religion under constant public scrutiny and criticism Practices concerning marriage and divorce are especially controversial and the book includes a detailed overview of the public debate about the application of Islamic legal and ethical norms shari a in family law matters and the associated role of Shari a councils in a British context In short Islam generally and the Muslim family in particular have become highly politicized sites of contestation and the book considers how

and why and with what implications for British multiculturalism past present and future The study will be of great interest to international scholars and academics researching the governance of diversity and the accommodation of other faiths including Islam The Oxford Handbook of Islamic Law Anver M. Emon,2018-10-25 This volume provides a comprehensive survey of the contemporary study of Islamic law and a critical analysis of its deficiencies Written by outstanding senior and emerging scholars in their fields it offers an innovative historiographical examination of the field of Islamic law and an ideal introduction to key personalities and concepts While capturing the state of contemporary Islamic legal studies by chronicling how far the field has come the Handbook also explains why certain debates recur and indicates fundamental gaps in our knowledge Each chapter presents bold new avenues for research and will help readers appreciate the contested nature of key concepts and topics in Islamic law This Handbook will be a major reference work for scholars and students of Islam and Islamic law for years to come **The Ashgate Research Companion to Islamic Law** Peri Bearman,2016-03-16 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

Culture in the Domains of Law René Provost,2017-02-02 This book examines whether law as a cultural practice can apply across cultural boundaries to bind people with vastly different beliefs and practices *The Ashgate Research Companion to Migration Law, Theory and Policy* Satvinder S. Juss,2016-03-23 The Ashgate Research Companion to Migration Law Theory and Policy complements the already successful Ashgate series Law Migration established in 2006 which now has a number of well regarded monographs to its credit The purpose of this Companion is to augment that Series by taking stock

of the current state of literature on migration law theory and policy and to sketch out the contours of its future long term development in what is now a vastly expanded research agenda The Companion provides readers with a definitive and dependable state of art review of current research in each of the chosen areas that is all embracing and all inclusive of its subject matter The chapters focus on the regional and the sub regional as well as the national and the global In so doing they aim to give a snap shot that is contextual coherent and comprehensive The contributors are both world renowned scholars and newer voices and include scholars practitioners former judges and researchers and policy makers who are currently working for international organisations

Marriage, Law and Modernity Julia Moses, 2017-11-16 Marriage Law and Modernity offers a global perspective on the modern history of marriage Widespread recent debate has focused on the changing nature of families characterized by both the rise of unmarried cohabitation and the legalization of same sex marriage However historical understanding of these developments remains limited How has marriage come to be the target of national legislation Are recent policies on same sex marriage part of a broader transformation And has marriage come to be similar across the globe despite claims about national cultural and religious difference This collection brings together scholars from across the world in order to offer a global perspective on the history of marriage It unites legal political and social history and seeks to draw out commonalities and differences by exploring connections through empire international law and international migration

Shari'a in the West Rex J. Ahdar, Nicholas Aroney, 2010 Leading scholars from a range of countries and academic disciplines and representing different political viewpoints and faith traditions explore the complex issues surrounding the legal recognition of religious faith in a multicultural society

Managing Family Justice in Diverse Societies Mavis Maclean, John Eekelaar, 2013-02-15 The aim of this book is to explore what response the law has or should have to different family practices arising from cultural and religious beliefs The issue has become increasingly debated as western countries have become more culturally diverse Although discussion has frequently focused on the role Islamic family law should have in these countries this book seeks to set that discussion within a wider context that includes consideration both of theoretical issues and also of empirical data about the interaction between specific family practices and state law in a variety of jurisdictions ranging from England and Wales to Bangladesh Botswana Spain Poland France Israel Iran and South Africa The contributors to the 17 chapters approach the subject matter from a variety of perspectives illustrating its complex and often sensitive nature The book does not set out to propose any single definitive strategy that should be adopted but provides material on which researchers advocates and policy makers can draw in furthering their understanding of and seeking solutions to the problems raised by this significant social development

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