
Islamic and Middle Eastern Law

24 June 2016

Duration: 60 minutes

- Please check both at receipt as well as at submission of the exam the number of question sheets. This exam consists of three pages in total, including this sheet. Select and answer **one** of the following three options.

We wish you a lot of success!

Option 1:

Islamic law is often represented as a single monolithic concept, rather than a collection of different interpretations and practices.

Discuss this argument in an essay by considering the formation and development of Islamic Law.

Or:

Option 2:

Consider the following excerpt from Article 149 of the Moroccan Family Code (Moudawana, decreed 2004).

(Translation)

Article 149

Adoption has no legal value and does not result in any of the effects of legitimate filiation (...).

Please discuss the following questions:

- a) Why is adoption not being practiced – or even out-rightly banned – in many Muslim-majority countries?
- b) What are the prerequisites and effects of legitimate filiation?
- c) Describe the legal institute of *kafalah* in the sense of an alternative care option for children without parental care.

Or:

Option 3:

Consider the following articles from the Moroccan Penal Code of 1962 (as amended), in particular Articles 490, 491 and 493. Write about the legal institute concerned and describe how the actual norms relate to classical Islamic Criminal Law.

(Translation)

Article 490

All persons of the opposite sex who are not related by marriage, and have sexual relations with each other, are punishable by imprisonment for one month to one year.

Article 491

Any married person convicted of adultery is punishable by imprisonment for one to two years; prosecution is pursued only on a complaint from the offended spouse.

However, if one of the spouses is outside of Morocco, the adulterous spouse (by common knowledge) may be prosecuted automatically on the initiative of the prosecution.

Article 492

Withdrawal of the complaint by the offended spouse terminates the proceedings against their spouse for adultery.

Withdrawal after a conviction becomes irrevocable terminates the consequences of that conviction for the convicted spouse.

Withdrawal of the complaint never applies to the adulterous spouse's accomplice.

Article 493

Evidence of offences under Articles 490 and 491 may be established either by a record prepared by a judicial police officer certifying that the criminal has been caught in the act of committing the offence, by confession in letters or documents by the accused or by a confession in court.