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## **Islamic and Middle Eastern Law**

**20 June 2018**

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**Duration:** 60 minutes

- Please check both at receipt as well as at submission of the exam the number of question sheets. The examination contains three pages.
- Select and answer **one** of the following two options.

**We wish you a lot of success!**



### Option 1

Consider the following articles from the Family Law of Qatar (Law No. 22 of 2006). Discuss the legal institute concerned and describe how the norms relate to classical Islamic law.

#### The Family Law of Qatar (Law No. 22 of 2006)

##### Divorce (talaq)

###### Article 106

Divorce, when expressed in the Islamic formula for divorce (talaq), is the dissolution of a valid marriage contract.

###### Article 112

Every divorce shall be revocable except divorce for the third time, divorce before consummation and divorce stated in this Law to be irrevocable or rescinded.

###### Article 113

Divorce may occur by the husband formally pronouncing it before the judge. Before ordering such pronouncement, the judge shall attempt to reconcile between the parties.

A divorce occurring outside the court room shall be proved by evidence or admission and shall have been communicated to the wife.

##### Khul'

###### Article 118

Khul' is the dissolution of a marriage contract by mutual consent of the husband and wife expressed in the word of "khul'" or its meaning against consideration to be paid by the wife.

[...]

##### Separation by Judicial Decree

###### Article 137

If a wife requests separation on the ground of lack of spending on her by her husband, [...] their immediate separation shall be decreed.



Article 144

A wife may request separation from her husband who is missing or absent in an unknown place [...]. The judge shall decree their immediate separation without adjourning [...].

Article 145

If a husband is imprisoned by a final judgment for a period of not less than two years, the wife may request separation. [...]

**Option 2**

Read the text provided and write an essay discussing the concept of legal pluralism in the Western context including arguments in favour and against legal pluralism.

“Given the fact that religious demands are an emerging societal phenomenon in the West, [...] it is the state’s duty to offer adequate responses. These responses should preferably embrace diversity from the perspective of freedom of religion or of thought, guaranteed as a fundamental right of individuals. Moreover, since these religious demands are very often visibly connected to those of identity, they must therefore be handled sympathetically and with respect for their significance to those concerned. In order for a Western legal system to make the necessary accommodation to religious diversity, the principle of the autonomy of the will should be taken as the starting point. This will allow for the incorporation of religious rules in civil law, more freedom of choice in private international law, and religious arbitration.” (Maurits S. Berger, Introduction: Applying Shari’a in the West, in Maurits S. Berger (ed.), *Applying Shari’a in the West – Facts, Fears and the Future of Islamic Rules on Family Relation in the West*, Leiden 2013, 18 f.)