
Indonesia’s criminal law system faces major challenges. Despite the country’s transition to democracy, both the Criminal Code and the Criminal Procedure Code are badly out of date, the former only superficially changed since colonial times and the latter remaining as it was under Soeharto’s authoritarian New Order regime. Law enforcement officers and judges are widely seen as corrupt or incompetent, and new laws, including new Islamic laws passed at the regional level, often contradict the Criminal Code and national statutes, including human rights laws. This book, based on extensive original research by leading scholars in the field, provides an overall assessment of the state of criminal law, law enforcement and penal policy in Indonesia, considers in depth a wide range of specific areas of criminal law, and discusses recent efforts at reform and their prospects for success.

The Arabic word Janayat means the wrong committed by someone. It is the infinitive of Jani Alaih Sharrun meaning so and so has done wrong to so and so. In the terminology of Islamic jurisprudence, the term connotes committing an act which is unlawful under the shariah, whether such act affects the life of someone or his property, etc.

This is an apt publication for modern times, in which ‘Sharia’ has become a byword for an unacceptable social system, and is vilified as such; when crime is rife in communities governed by Sharia; and when in the non-Islamic West, the Islamic social and criminal justice systems are subject to intense public scrutiny and criticism, but remain little understood. The author presents a clear and factual account of the Islamic criminal justice system, explaining the real issues of Sharia, often ignored or misrepresented by both Islamic and Western scholars, and explaining its wider Islamic context and ethics, its Arabic roots, classical heritage and terminology, and its relevance to contemporary Muslim societies. Contents: concept of crime; features of Islamic criminal liability; defences to Islamic criminal liability; ‘Hudud’ crimes; ‘Zina’ - adultery or fornication; ‘Qadhi’ - slander or false accusation; ‘Hadd’ offence of ‘al-sariqa’ - theft; ‘Hadd’ offence of ‘shurbul khamr’ - wine drinking; ‘Hiraba’ - brigandage or highway armed robbery; ‘Riddah’ - apostasy; ‘Baghye’ - rebellion or treason; ‘Qisas’ - retaliation; ‘Ta’azir’ punishment. Contrary to the stereotypical images of torture, narcotics and brutal sexual abuse traditionally associated with Ottoman or ‘Turkish’ prisons, Kent Schull argues that, during the Second Constitutional Period (1908-1918), they played a crucial role in attempts to transform the empire. No legal system in the world has aroused as much public interest as Sharia. However, the discourse around Sharia law is largely focussed on its development and the theories, principles and rules that inform it. Less attention has been given to studying the consequences of its operation, particularly in the area of Islamic criminal law. Even fewer studies explore the actual practice of Islamic criminal law in contemporary societies. This book aims to fill these gaps in our understanding of Sharia law in practice. It deals specifically with the consequences of enforcing Islamic criminal law in Pakistan, providing an in-depth and critical analysis of the application of the Islamic law of Qisas and Diyat (retribution and blood money) in the Muslim world today.

The empirical evidence adduced more broadly demonstrates the complications of applying traditional Sharia in a modern state.

Comparative, International, and Global Justice: Perspectives from Criminology and Criminal Justice presents and critically assesses a wide range of topics relevant to criminology, criminal justice and global justice. The text is divided into four parts: Approaches & Methods (I), Systems & Methods (II), Aspects & Issues (III), and Contexts & Comparisons (IV). Part I includes essays exploring various methodological approaches to criminal law (such as criminology, feminist studies, and history). Part II provides an overview of systems or models of criminal law, laying the foundation for further inquiry into specific conceptions of criminal law as well as for comparative analysis (such as Islamic, Marxist, and military law). Part III covers the three aspects of the penal process: the definition of norms and principles of liability (substantive criminal law), along with a less detailed treatment of the imposition of norms (criminal procedure) and the infliction of sanctions (prison or corrections law). Contributors consider the basic topics traditionally addressed in scholarship on the general and special parts of the substantive criminal law (such as jurisdiction, mens rea, justifications, and excuses). Part IV places criminal law in context, both domestically and transnationally, by exploring the contrasts between criminal law and other species of law and state power and by investigating criminal law's place in the projects of comparative law, transnational, and international law. “Raif Badawi’s is an important voice for all of us to hear”-- Salman Rushdie Raif Badawi, a Saudi Arabian blogger, shared his thoughts on politics, religion, and liberalism online. He was sentenced to 1,000 lashes, ten years in prison, and a fine of 1 million Saudi Riyal, over a quarter of a million U.S. dollars.
This politically topical polemic gathers together Badawi’s pivotal texts. He expresses his opinions on life in an autocratic-Islamic state under the Sharia and his perception of freedom of expression, human and civil rights, tolerance and the necessary separation of state and religion. The goal of this book is to minimize the misunderstandings and conflicts between International law and Islamic law. The objective is to bring peace into justice and justice into peace for the prevention of violations of human rights law, humanitarian law, international criminal law, and the rule of law. This book, first published in 2006, is an account of the theory and practice of Islamic criminal law.Authority and Control in the Classical Islamic Law looks at the cultural instruments and religious practices that led to a late-antique to early medieval Mediterranean and Near East used to manage their rural hinterlands. This volume, the first of six to be published, studies fundamental values of Islam, along with the nature of rights and the responsibilities in a general context. The authors analyse the development of social thought and morality in Islam, and ways in which they are enforced through the family and education. Particular attention is paid to the status of women, children, youth and the socially excluded. Several chapters broach specially Islamic approaches to economics, government and justice. A world religion since its inception in the seventh century A.D., Islam is today seeking vigorous answers to contemporary problems through its multi-faceted themes. Issues of poverty and wealth, inequality and politics for the public respect, and expression for diversity in a difficult world of conformity are dealt with in this series. The study is organized along thematic rather than chronological lines and the volumes are in fact the first six volumes in order. Volume IV is forthcoming end 2002, volume V mid 2003 and volumes III and VI in 2004. This volume, the first of six to be published, studies fundamental values of Islam, along with the nature of rights and the responsibilities in a general context. The authors analyse the development of social thought and morality in Islam, and ways in which they are enforced through the family and education. Particular attention is paid to the status of women, children, youth and the socially excluded. Several chapters broach specially Islamic approaches to economics, government and justice. This is a new release of the original 1924 edition. This book is a selective guide designed to help scholars and students of Islamic studies find reliable sources of information by directing them to the best available scholarly materials in whatever form or format they appear from books, chapters, and journal articles to online archives, electronic data sets, and blogs. Written by a leading international authority on the subject, the book provides bibliographic information supported by direct recommendations about which sources to consult and editorial commentary to make it clear how the cited sources are interrelated related. A reader will discover, for instance, the most reliable introductions and overviews to the topic, and the most important publications on various areas of scholarly interest within this topic. In Islamic studies, as in other disciplines, researchers at all levels are drowning in potentially useful scholarly information, and this guide has been created as a tool for cutting through that material to find the exact source you need. This book is a static version of an article from Oxford Bibliographies Online: Islamic Studies, a dynamic, continuously updated, online resource designed to provide authoritative guidance through scholarship and other materials relevant to the study of the Islamic religion and Muslim cultures. Oxford Bibliographies Online covers most subject disciplines within the social science and humanities. It incorporates original essays with updates of evolution of subject areas. It covers sources in the arts, humanities, and social sciences, and practices in Western countries over the past twenty-five years. Contributors address plea-bargaining, community service, electronic monitoring, standards of use of incarceration, and legal perspectives on sentencing policy developments, among other topics. Sentencing and Sanctions in Western Countries provides a range of scholars and students excellent cross-national knowledge of sentencing laws and practices, when and why they have changed over time, and with what effects. Centered on legal discourses of Islam's first six centuries, this book analyzes juristic writings on the topic of rape. A survey of Sharia criminal law, commissioned by the European Commission, and to provide analysis of the re-islamification of the Northern Nigerian states, based on classical Islamic texts. The study clarifies and explains the circumstances and background to these new codes, paying special attention to the Koraic offences of fornication, theft, robbery and Alqia consumption. It further identifies the conflicts between the codes and the human rights principles guaranteed in the Nigerian federal constitution, and in the United Nations conventions on human rights to which Nigeria is a signatory; and surmises the views of the local people about the laws. The author is Professor of Islamic Law at the University of Amsterdam. In Crime and Punishment in Islamic Law: A Fresh Interpretation, Mohammad Kamali considers problems associated with and proposals for reform of the hudud punishments prescribed by Islamic criminal law, and other topics related to crime and punishment in Shari'a. He examines what the Qur'an and hadith say about hudud punishments, as well as just retaliation (qisas), and discretionary punishments (ta'zir), and looks at modern-day applications of Islamic criminal law in 15 Muslim countries. Particular attention is given to developments in Malaysia, a multi-religious society, federal state, and self-described democracy, where a lively debate about hudud has been on-going for the last three decades. Malaysia presents a particularly interesting case study of how a reasonably successful market economy, high levels of exposure to the outside world, and a credible claim to inclusivity, deals with Islamic and Shariah-related issues. Kamali concludes that there is a significant gap between the theory and practice of hudud in the scriptural sources of Shari'ah and the scholastic articulations of jurisprudence of the various schools of Islamic law, arguing that literalism has led to such rigidity as to make Islamic criminal law effectively a dead letter. His goal is to provide a fresh reading of the sources of Shari'ah and demonstrate how the Qur'an and Sunnah can show the way forward to needed reforms of Islamic criminal law. This book considers the rarely studied but pervasive concepts of doubt that medieval Muslim jurists used to resolve problematic criminal cases. From "an eye for an eye" to debates over capital punishment, humanities has a long and controversial relationship with doing out justice for criminal acts. Today, crime and punishment remain significant parts of our culture, but societies vary greatly on what is considered criminal and how it should be punished. In this book, Ruth chronicles the global history of crime and punishment—from early civilizations to the outlawing of sex crimes and serial homicide to the development of organized crime and the threat today of global piracy. He explores the birth of the penitentiary and the practice of incarceration as well as the modern philosophy of rehabilitation, arguing that these are perhaps the most important advances in the effort to safeguard citizens from harm. Looking closely at the retributions societies have condemned, Roth also look at execution and its many forms, showing how stoning, hemlock, the firing squad, and lethal injection are considered either barbaric or justified across different cultures. Ultimately, he illustrates that despite advances in every level of human experience of crime and punishment, certain activities, academics, and general readers alike, this interdisciplinary book provides a fascinating look at criminality and its consequences. This vividly detailed revisionist history exposes the underworld of the largest metropolises of the early modern Mediterranean and through it the entire fabric of a complex, multicultural society. Fariba Zarinnebaf maps the history of crime and punishment in Istanbul over more than one hundred years, considering transgressions such as riots, prostitution, theft, and murder and at the same time tracing how the state controlled and punished its unruly population. Taking us through the city's streets, workshops, and houses, she gives voice to ordinary people—the man accused of stealing, the woman accused of prostitution, and the vagabond expelled from the city. She finds that Istanbul in this period remained mischaracterized—in part by the sensational and exotic accounts of European travelers who portrayed it as the embodiment of Ottoman decadence. From the dramatic rise of crime and punition, to the demise of the Ottoman Empire, she examines the socioeconomic, and social transformations that occurred in the eighteenth century. Zarinnebaf finds in fact that Istanbul had much more in common with other emerging modern cities in Europe, and even in America. It is an established fact that the Prophet never, in his entire life, put an apostate to death. Yet, the issue remains one of the most controversial to have afflicted the Muslim world down the centuries. It is also the source of much damaging media coverage today as Islamic jurisprudence stands accused of a flagrant disregard for human rights and
freedom of expression. The subject of this book is a highly sensitive and important one. The author rightly concentrates on evidence, to examine the historical origins of the debate in rigorous detail, as well as the many moral and contextual issues surrounding it. Disputing arguments put forward by proponents of the death penalty he contends that both the Qur'an and the Sunnah promote freedom of belief including the act of exiting the Faith and do not support capital punishment for the sin of al-riddah. Note that attention is on the word sin, for there is qualification: as long as one’s apostasy has not been accompanied by anything else that would be deemed a criminal act, particularly in terms of national security, then according to the author, it remains a matter strictly between God and the individual. Of interest is the fact that the Qur’an significantly refers to individuals repeatedly returning to unbelief after having believed, but does not mention that they should be killed or punished. This work has been written at a time of great complexity and vulnerability when a true understanding of the higher intents and values of the Qur’an and the Sunnah, maqasid al-shariah, is sorely needed. The author employs a strong evidence-based approach examining in detail the Qur’an and authentic Hadith, taking into consideration traditional approaches to the study of the Islamic textual sciences and other fields of knowledge, as well as analyzing scholastic interpretation. Taking the life of a person without just cause is according to the Qur’an equivalent to the killing of the whole of mankind. It is vital therefore, that in the interests of compassion and justice, as well as freedom of belief, this subject is clearly addressed once and for all.Provides a close analysis of the ‘Aqila, a group collectively liable for blood money payments, in Islamic law and history. Similar to other countries criminal justice has been one of the most debated issues in Islamic cultures. Over the years Islamic criminal law has attracted much media attention. However, debates over penal policies and practices in the Islamic world are touching between extremes which are ideologically and philosophically different from those of other countries. Islamic criminal justice system equally encompasses criminal procedure and the attendant institutional arrangements. The components of the Islamic criminal justice system therefore include law enforcements, prosecution, defence by the accused, court trial and post-conviction rehabilitation. Studying criminal punishment in Islamic countries, which have their own rationale behind punishing criminals, helps us to understand the nature of punishment as a social institution. Moreover, unraveling social and cultural conditions of penal practices in these countries reduces the level of “absurdity” and “idiosyncrasy” of some penal options in these countries. However, in other Islamic societies whose political order is not rested on Islam and its injections, Shari’a still plays a significant role in public and private life and competes with or even contradicts state laws. Therefore, Islamic punishments may be exercised by ordinary Muslims who do not believe in state penal laws and wish for an Islamic way of justice. This book Criminal Justice in Islam contains state of the art reviews of Islamic perspectives on punishment and sentencing. By drawing the parallels between both the Islamic and western concepts of punishments, this work attempts to dispel the western critique against the Islamic punishments. Islamic beliefs and practice, therefore, are discussed as the main explanatory factor for the low crime rate in Islamic countries. This book aims to equip the audience with the necessary tools to confidently challenge the misconceptions surrounding Islamic criminal law. This is an account of the theory and practice of Islamic criminal law. This book fills an important gap in the available literature on the more recent developments of the Sudanese legal system, with a special focus on Islamic Criminal Law on the one hand and its administration by the Sudanese Supreme Court on the other.