

# Islamic legal system

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# : Plane

- ▣ 1. General characteristic of Islamic legal system
- ▣ 2. History of Islamic legal system
- ▣ 3. The sources of Islamic law (make scheme showing all main sources, on next slides characterize each source)
- ▣ 4. The trends in the Islamic law development
- ▣ 5. Legal system of Egypt / Morocco

# *:General characteristic of Islamic legal system.1*

- ▣ After a lot of researches concerning Islamic law, the scholars of Islam had found therein a number of characteristics features including:
- ▣ First, It is moderate and balanced in terms of its view of man with its two essential components, namely the spiritual and the physical aspects of his nature. Allah the Almighty says:« But seek, through that which Allah has given you
- ▣ Second, it is rational and realistic because it deals with tangible facts, not illusions and superstitions.
- ▣ Third, it is easy and free of hardships

- ▣ Forth, it based on divine sources because the Islamic law, its principles, its methods are derived from Glorious Quran and Sunna of the prophet Muhammad( peace be upon hi)
- ▣ Fifth, It is universal in a way that is not only limited to a specific human race,certain places,or color.rather.it is guidance for all humanity.
- ▣ Sixth, It is moderate and balanced in terms of its view of man with its two essential components, namely the spiritual and the physical aspects of his nature
- ▣ finally, this is our wonderful religion which was named Islam, it is comprehensive way of life for all human being.

## *:History of Islamic legal system .2*

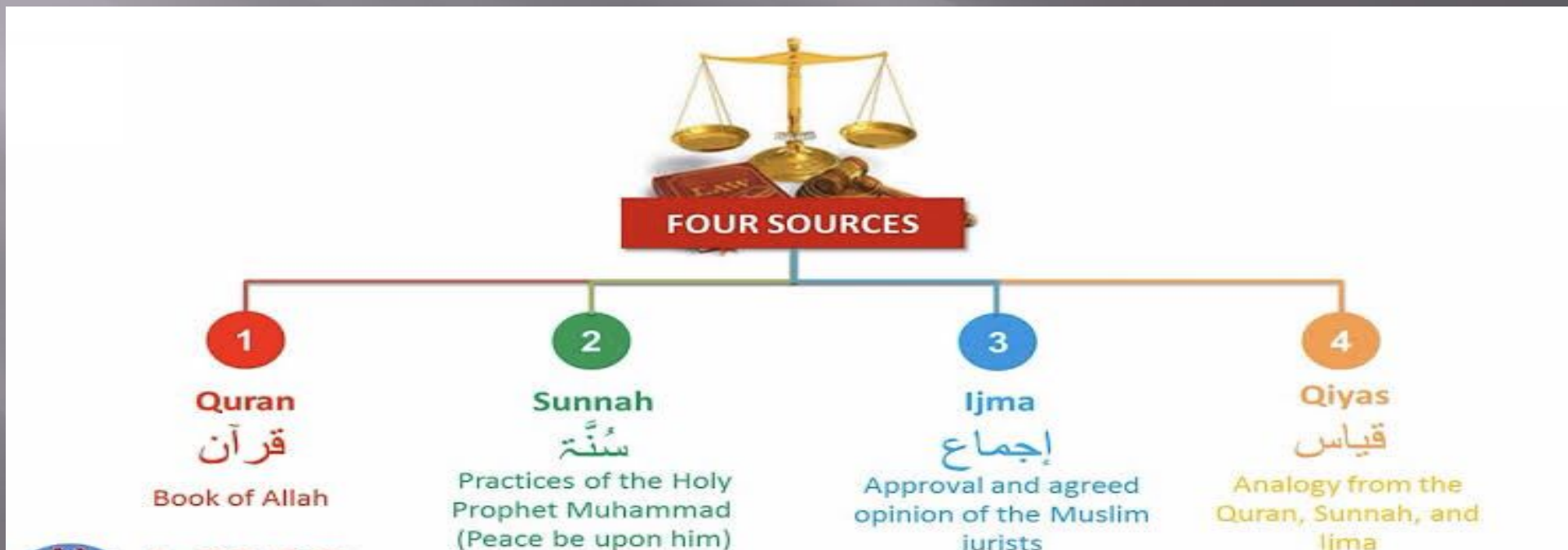
- Before Islam, the nomadic tribes inhabiting the Arabian peninsula worshiped idols. These tribes frequently fought with one another. Each tribe had its own customs governing marriage, hospitality, and revenge. Crimes against persons were answered with personal retribution or were sometimes resolved by an arbitrator. Muhammad introduced a new religion into this chaotic Arab world. Islam affirmed only one true God. It demanded that believers obey God's will and laws.
- The Koran sets down basic standards of human conduct, but does not provide a detailed law code. Only a few verses deal with legal matters. During his lifetime, Muhammad helped clarify the law by interpreting provisions in the Koran and acting as a judge in legal cases. Thus, Islamic law, the Sharia, became an integral part of the Muslim religion.

- ▣ Following Muhammad's death in A.D. 632, companions of Muhammad ruled Arabia for about 30 years. These political-religious rulers, called caliphs (KAY liff), continued to develop Islamic law with their own pronouncements and decisions. The first caliphs also conquered territories outside Arabia including Iraq, Syria, Palestine, Persia, and Egypt. As a result, elements of Jewish, Greek, Roman, Persian, and Christian church law also influenced the development of the Sharia.
- ▣ By around the year 900, the classic Sharia had taken shape. Islamic specialists in the law assembled handbooks for judges to use in making their decisions.
- ▣ The classic Sharia was not a code of laws, but a body of religious and legal scholarship that continued to develop for the next 1,000 years. The following sections illustrate some basic features of Islamic law as it was traditionally applied



## : *The sources of Islamic law .3*

- The sources of Islamic law are used by Islamic Scholars to explain and clarify the Shari'ah. There are four Islamic sources of law which are accepted universally by all Muslims, which include Qur'an, Sunnah, Ijma' (Consensus) and Qiyas (analogy).



# *The trends in the Islamic law development .4*

## ▣ **Uthman**

- ▣ He was the third caliph who received the caliphate shortly after Omar's death in AH 23. Some of the tasks accomplished by Uthman were , Much of the Balkans, Cyprus and much of the North Africa were added to the dominions of Islam, The task of collection, verification and systematic compilation of the Holy Quran which was commenced with Abu baker was completed. Thus written copies were compiled in to one single volume. This copy was sent to all sectors of the Islamic world, He had related 146 Hadith from the Prophet (PBUH)

## ▣ **Ali**

- ▣ He was the fourth and the last caliph. He was born in 600 AD in Mecca. He was the cousin of the Prophet (PBUH) who latter arranged a marriage between Ali and his daughter Fatima whom he cherished and adored. Ali transferred the capital city from Mecca to Kufa when he took office in AH.35. Some of his attributes were he: He was among the learnt ones among the companions , He related hundreds of Hadith , **and** He was a diplomat and states man of the highest echelon and showed familiarity of the highest order in the political administrate in social and legal duties a governing body owed to its people.



- ▣ **The Period of Umayyad**

- ▣ In the previous sections we have seen how Islam brought its domain into vast areas during the caliphate period. Thus, people within the Islamic Empire became aware of the importance, force and wielding that political power could bring. Among many factors, that was then one that led to the establishment of the Umayyad governance which was first established by Mu'a Wiyah. The Umayyad dynasty stayed on power from 661 AD to 750AD. During this period significant progress was made in Islamic Law. The public law sphere was standardized, codified and established while the private law spheres remained diverse. The first Islamic Jurisprudence schools, whose main purposes were to spread and teach the message of Islam, were established

- ▣ **The Period of the Abbasids**

- ▣ The Abbasids, who are the Prophet's (PBUH) cousins, came to the throne in 750 AD. They did that with the help of the Persians. They accused the Umayyad for distortion and dilution of the Islamic Law to suit the exigencies of the times without a proper consideration and due regard to the basic tenets of Islam. A scholarly theology evolved where in the articles and principles of Islamic faith and the Attributes of Allah were examined and conversed about, in order to ascertain the Unity of Allah the Most High. The doctrine of constitutionalism was created. Thus every community was represented by a council of state. Legal scholars were encouraged to respect, examine and deduce the mode of operation of the law within the Muslim Community, Traditions of the Prophet (PBUH) were collected and the jurisprudence of the sources of Islamic Law were codified and written.

## *:Legal system of Egypt.5*

- ▣ The Egyptian legal system is built on the combination of Islamic (*Shariah*) law and Napoleonic Code, which was first introduced during Napoleon Bonaparte's occupation of Egypt and the subsequent education and training of Egyptian jurists in France.
- ▣ The Egyptian legal system, being considered as a civil law system, is based upon a well-established system of codified laws. Egypt's supreme law is its written constitution. With respect to transactions between natural persons or legal entities, the most important legislation is the Egyptian Civil Code of 1948 (the "ECC") which remains the main source of legal rules applicable to contracts. Much of the ECC is based upon the French Civil Code and, to a lesser extent, upon various other European codes and upon Islamic (*Shariah*) law (especially in the context of personal status)

- ▣ Despite the non-existence of an established system of legally (*de jure*) binding precedents, previous judicial decisions do have persuasive authority. Courts are morally and practically bound (*de facto* binding effect) by the principles and precedents of the Court of Cassation and the Supreme Administrative Court.
- ▣ It is worth noting that the classical dichotomy of public and private law has resulted in the crystallization of a separate set of legal rules applicable to transactions involving the State (or any of its institutions, subsidiaries, or state-owned enterprises) acting as a sovereign power. This entailed the establishment of the Egyptian Council of State (*Conseil d'Etat*) by virtue of Law No.112 of 1946 as amended by Law No. 9 of 1949, which consists of administrative courts vested with the power to decide over administrative disputes pertaining to administrative contracts and administrative decrees issued by government officials. These courts apply administrative legal rules, which are not entirely codified; hence, because often no applicable legislative rules exist, the scope of judicial discretion is ample in light of the established principles laid by the supreme courts.