

## **APPENDICES**



## GLOSSARY

<i>ahkām</i>	plural of <i>hakam</i> ; principles
<i>ahl Hadīth</i>	a section of <i>Sunnī</i> Muslims in India who do not blindly adhere to any particular school of Islamic law. They believe in direct recourse to the Traditions. They have an all India organization called <i>Jamā'at Ahl Hadīth</i> , with its headquarters in Delhi.
<i>'ada/ādat</i>	custom or usage
<i>'azl</i>	Arabic equivalent of the method of birth control known as <i>coitus interruptus</i>
<i>batil</i>	a term used for a void contract having no legal effect
<i>Bukhārī</i>	title of one of the six authentic collections of the traditions, given to it after the name of its author Imām Bukhārī
<i>dar al-harb</i>	in law—a country where Muslims have no cultural autonomy or which is governed by non-Muslims according to non-Islamic polity
<i>dar al-Islām</i>	in law—a country which is ruled by Muslims or where Muslims have complete cultural autonomy
<i>dargāh</i>	a shrine
<i>fasid</i>	term used for an irregular contract which can be validated by removal of the irregularity
<i>fatwa</i>	verdict of a jurist or opinion of a lawyer
<i>farā'id</i>	plural of <i>fard</i> ; obligatory tenets of Islam
<i>fiqh</i>	jurisprudence
<i>ghirra</i>	blood-money or compensation payable for killing foetus
<i>hadāna</i>	custody of children
<i>hadīs</i>	Urdu equivalent of <i>hadīth</i>
<i>hadīth</i>	Traditions; doings, sayings and tacit approvals of the Prophet, together constituting the second source of Islamic law under the classical theory

<i>halāla</i>	the process by which remarriage of a triply-divorced wife with the same man becomes lawful, <i>viz.</i> , her marriage with another man, consummated and terminated by divorce followed by <i>'idda</i>
<i>Hanafī</i>	of or relating to the school of Islamic law founded by Imām Abū Hanīfa
<i>Hanbalī</i>	of or relating to the school of Islamic law founded by Imām Ahmed ibn Hanbal
<i>Huqūq al-'ibād</i>	man's duties towards fellow human being—as distinguished from duties towards the creator ( <i>huqūqullah</i> )
<i>Ibādī</i>	A sectarian school of Islamic law followers of which are found in Algeria and Tanzania
<i>'idda</i>	probationary period following the husband's death or divorce, during which the woman is restrained from contracting a second marriage
<i>ijmā'</i>	'consensus'; third source of legislation under the classical juristic theory of Islam
<i>ijmā' al-umma</i>	consensus of the community
<i>ijtihad</i>	interpretation (or re-interpretation) of the classical texts of Islamic law, based on reason
<i>imām 'ādil</i>	a just leader
<i>Imamia</i>	<i>Shī'a Ithnā 'Asharī</i> school of Islamic law
<i>Ismā'īlī</i>	of or relating to the school of Islamic law named after Imām Ismā'il.
<i>Ithnā 'Asharī</i>	of or relating to the <i>Shī'a</i> school of Islamic law named after Imām Jāfar al-Sādiq; also known as <i>Jafarī</i> school
<i>istihsān</i>	'juristic equity'; a form of <i>qiyās</i> and one of the secondary sources of legislation in Islam
<i>jamā 'at</i>	party, organization
<i>jiwār</i>	vicinage
<i>kazī</i>	same as <i>qādī</i>
<i>kitabīyya</i>	a woman following any of the scriptural religions
<i>khilt</i>	participation in appendages
<i>khiyar al-bulūgh</i>	'option of puberty', the discretion of a girl, given in marriage by her guardian while a minor, to repudiate the marriage after becoming major

<i>khul'</i>	divorce by consideration under which a husband agrees to divorce his wife if she foregoes part or whole of her dower
<i>kuf</i>	'equality' of spouses in matters of social and financial status, etc.; one of the considerations recommended in Islamic law for settling a match
<i>li'an</i>	'mutual imprecation', an archaic form of divorce following a charge of adultery against the wife
<i>mahr</i>	dower
<i>mahr mu'ajjal</i>	'prompt' dower; payable at or before the consummation of marriage
<i>Mālikī</i>	of or relating to the school of Islamic law founded by Imām Mālik ibn Anas
<i>marad al-maut</i>	death illness
<i>masalih al-mursala</i>	the Doctrine of Public Interest; one of the considerations in Islamic legislation
<i>mansūs</i>	expressly ordained in the <i>Qur'an</i>
<i>mubāh</i>	permissible; something towards which religion is indifferent
<i>musta'li</i>	a branch of the <i>Isma'īlī</i> school of Islamic law to which the Bohoras of western India belong
<i>mu'tazila</i>	a progressive movement in Islamic history which emerged during the reign of the Abbasid dynasty
<i>mutawallī</i>	trustee of a <i>waqf</i>
<i>nikah</i>	marriage
<i>nizārī</i>	another branch of the <i>Isma'īlī</i> school of Islamic law, to which the <i>Isma'īlī</i> Khojas of western India belong
<i>qādī</i>	a judge or magistrate
<i>qiyās</i>	'analogy'; the fourth source of legislation under classical juristic theory of Islam
<i>radd</i>	the doctrine of 'Return' under Islamic law of inheritance
<i>Sahāih sitta</i>	the six authentic collections of the Traditions— <i>Bukharī</i> , <i>Muslim</i> , <i>Abī Da'ūd</i> , <i>Ibn Māja</i> , <i>Tirmidhī</i> , <i>Sanaī</i>
<i>shafi'</i>	pre-emptor
<i>shafi' jar</i>	a person claiming pre-emption on the basis of vicinage

<i>shafī' khalāt</i>	a person claiming pre-emption on the basis of participation in appendages
<i>shafī' sharīk</i>	a person claiming pre-emption on the basis of being a co-sharer
<i>Shāfi'ī</i>	of or relating to the school of Islamic law founded by Imām Shāfi'ī
<i>sharh Fatimā</i>	value of the dower given by the Prophet to his youngest daughter Fātima Zahra, wife of 'Alī
<i>shī'a/shī'ī</i>	one of the two major divisions of Muslims, owing allegiance to the Prophet's son-in-law, 'Alī, as his just successor
<i>shirka</i>	relation between co-sharers, co-heirs or partners
<i>shuf'a</i>	pre-emption
<i>sunna</i>	same as <i>hadīth</i> (see above)
<i>sunni</i>	one of the two major divisions of Muslims; in law, followers of the <i>Hanafī</i> , <i>Malikī Shāfi'ī</i> and <i>Hanbalī</i> schools
<i>takhayyur</i>	an eclectic choice of legal principles from amongst those of the various schools of Islamic law; a method of modern Islamic legislation
<i>taqlid</i>	the doctrine of blind adherence to the traditional interpretation of classical legal texts
<i>talāq</i>	divorce
<i>talāq al-bid'a</i>	an unapproved form of divorce by man
<i>talāq al-sunna</i>	approved forms of divorce by man
<i>talāq ahsan</i>	one of the approved forms of divorce by man
<i>talāq hasan</i>	the other form of approved divorce by man
<i>talāq tafwīd</i>	delegated divorce
<i>tuhr</i>	the period intervening two consecutive menstrual courses
<i>'urf</i>	custom or usage
<i>waqf</i>	a trust created under and governed by Islamic law
<i>waqf ala'l-aulād</i>	family settlement
<i>waqif</i>	settlor
<i>Zahirī</i>	of or relating to the school of Islamic law, now extinct, founded by Imām <i>Da'ūd al-Zahirī</i> .
<i>zinā</i>	fornication

## BIBLIOGRAPHY

There is abundance of interesting and useful literature on Muslim personal law, its particular aspects, its administration, and the issue of its reform or replacement by a uniform civil code in India. It will indeed be a monumental task to prepare an exhaustive or even a fully representative bibliography on these subjects; and that, of course, is not intended in these pages. On the legal system of Islam in general, which has a multi-national sphere of application, a thorough bibliography, nicely classified and covering the works in various languages, is found in Joseph Schacht's *Introduction to Islamic Law* (Oxford, 1964). In addition, a fairly detailed bibliography on the recent reform of Islamic family law and succession in various countries of Asia, Africa and Europe, was appended by me to the book *Family Law Reform in the Muslim World* published under the auspices of the Indian Law Institute at the beginning of this year.

Very useful books, monographs and articles have been published in Urdu, in the recent years, representing the views of various sections of public opinion on the issues of a uniform civil code and personal law reform. My own book in Urdu—*Muslim Personal Law ke Tahaffuz k̄ Mas'ala* (The Issue of Preserving Muslim Personal Law)—has been recently published by the Jamia Millia Islamia, Delhi. It includes a list of all the important works in Urdu on these subjects.

The bibliography being given here is confined to the works in English and has a limited scope. In its first section I have listed all the important works which deal with the substantive law of Islam (on personal status, family affairs, succession and other allied matters) as applied by the courts in India. The second section consists of a selection of works discussing the issue of the reform of Muslim personal law in India or its replacement by a common civil code mentioned in article 44 of the Constitution.

—Editor

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[Note :

Some extremely useful publications on the issues of a uniform civil code and the reform of personal laws are expected to be out in the near future. The Institute of Constitutional and Parliamentary Studies, New Delhi is publishing shortly: *A Uniform Civil Code for India*, which is a compilation of articles written by 21 authors and also includes proceedings of a seminar on uniform civil code organized by that Institute in 1968. A similar compilation, *Readings in Uniform Civil Code*, is in preparation in Bombay.]