



HARMONISATION OF THE SHARĪ'AH AND CIVIL LAWS

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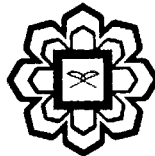


**HARMONISATION OF THE
SHARĪ'AH AND CIVIL LAWS
(PERSPECTIVE AND PRACTICE)**

EDITORS

ABDUL HASEEB ANSARI

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Dato' Zaleha Kamaruddin

1. Introduction

As different family laws apply to different communities within one legal system, by right, there should be minimal interrelationship. However, on the few occasions that they intersect, there is much confusion and tension created as much by adjective law and juridical issues as the conflicting substantive family laws. The just resolution of these inherently complicated matters is aggravated by a third element seeking to be another, and even overriding source of substantive law—international instruments on certain aspects of family life.¹

1.1 Muslim Civil Society and the Legal Setting

Islamic law including Muslim family law was revealed by Allah (s.w.t.). It is therefore superior to man-made law. Observing Islamic law and its teachings in all aspects of life is the overarching Islamic duty of all Muslims encompassed in the concept of *tauhid*. Practising Islamic law and having it applied to Muslims is a sacred duty of all Muslims.

British colonisation resulted in the marginalisation of Islamic law from being the basic law applicable to all matters to being restricted to some narrow though significant aspects of life namely, the family. The efforts of ensuring human rights to all, especially feminist groups in promoting secular international law documents as the standard by which all laws including Islamic law should be judged, is infuriating interference to Muslims though reaction was surprisingly subdued.