

**THE
ADMINISTRATION
OF ISLAMIC
LAW
IN MALAYSIA**

AHMAD MOHAMED IBRAHIM

CONTENT

Islamic Banking and Finance	
Forward	(v)
Preface	(vi)
Table of Cases	(vii)
Table of Statutes	(xiii)
Introduction	(xviii)
PART 1	
The Shariah Legal System	
Chapter 1	
The Legal System and the Social Order in Malaysia	3
Chapter 2	
The Influence of Islam on Law in Malaysia	17
Chapter 3	
Civil Law and Shariah Law – Conflict of Jurisdiction	37
Chapter 4	
Judges and Lawyers under the Shariah and the Civil Law	61
Chapter 5	
Justice in the Shariah Court	87
Chapter 6	
Recent Developments in the Shariah Law in Malaysia	131
Chapter 7	
Maslahah and Its Application in Malaysia's Multi-Racial Society	153

Chapter 8	
Islam and Law	179
Chapter 9	
The Study of Shariah Law in Malaysia	193
PART 2	
Islamic Family Law	
Chapter 10	
Effect of Conversion on Marriage - Section 51 of The Law Reform (Marriage and Divorce) Act, 1976	207
Chapter 11	
The Administration of Islamic Family Law in Malaysia	227
PART 3	
Islamic Jurisprudence	
Chapter 12	
Conversion To and From Islam	325
Chapter 13	
The Collection and Disbursement of Zakat	359
Chapter 14	
The Principles of an Islamic Constitution and the Constitution of Malaysia: A Comparative Analysis	377
Chapter 15	
Superiority of the Islamic System of Justice	409

PART 4**Islamic Banking and Finance**

Chapter 16	
Islamic Banking Act, 1983	429
Chapter 17	
Legislation on Consumer Credit in Malaysia and the Muslim Response	469
Chapter 18	
The Role of Accountants in a Dynamic Malaysia Socio-Economic Development	481
Chapter 19	
The Future of the Islamic Financial System in Malaysia	499
Chapter 20	
The Role and Scope of Islamic Law for the Design and Establishment of an Islamic Political Economy	513

PART 5**Islamic Criminal Law**

Chapter 21	
Islamic Criminal Law	577
Chapter 22	
Apostasy and Its Effect in Islam	585
Chapter 23	
Suitability of the Islamic Punishments in Malaysia	621

PART 6

Procedure in the Islamic Law

Chapter 24

Religious Beliefs and Humanitarian Law with Special

Reference to Islam

643

Chapter 25

Human Rights in Islam: Judicial Safeguards

667

Chapter 26

Evidence, Witnesses and Procedure in the Shariah Court

681

Chapter 27

Prospect of an International Islamic Court

709

Index

725

TABLE OF CASES

A

Abdul Aziz v Che Pah	273
Abdul Razak v Aga Mohamad	356
Adiba Yasmi v Abdul Rani	266
Ahmad v Aishah	123
Aisah Bee v Mohamed Nor	312
Aisny v Haji Fahro Razi	105, 263
Aishah v Wan Mohamad Yusof	26, 96, 242
Amdan v Ghazali	261
Aminah v Ahmad	260
Atikah bt. Abdul Hamid v Rozali bin Haji Ahmad	106, 274
Attorney General of Ceylon v Reid	95
Azizah v Mat	95

B

Balqis Fatimah v Naj-ul-Qureshi	258
Bank Islam Malaysia Berhad v Adnan bin Omar	524
Bank Islam Malaysia berhad v Tinta Press Sdn Bhd & Others	479
Bidah v Abdul Ghani	313
Boto' v Jaafar	146, 310

C

Che Pah v Siti Rahmah	257
Clarke v Harleysville Mut Casualty	87

D

Dah v Abdullah	266
Donoghue v Stevenson	33
Dalip Kaur v Pegawai Polis Daerah, Bukit Mertajam	45, 147, 337, 604, 609 - 611, 616, 619, 620

TABLE OF CASES**TABLE OF CASES****PREFACE****E**

Eswari Visuvalingam v Government of Malaysia 47, 216, 281, 349

F

Fakhariah bt. Lokman v Johari 264

Fathillah v Mohammed Ghafar 265

G

G. Rethinasamy v Majlis Agama Islam,
Pulau Pinang & Another 52

H

Habsah v Ahmad 106, 276

Habibullah v Faridah 321

Hairun v Omar 106, 276

Hajjah Amin v Haji Abdul Rashid 56

Haji Abdul Rahim v Isagaton 116, 314

Haji Hanafiah v Rokiah 101

Hajjah Mahani bt. Sulaiman & Others
v Majlis Agama Islam & Adat Melayu Terengganu 620

Harun v Che Gayah 124

Hashim v Fatimah 235

Husin v Saayah 235

Hasnah v Saad 265

Hawa v Mohamed Redzuan 108, 285

Hyde v Hyde 34

I

Ibrahim v Fatimah 250

India Rev. Stanislans v State of madhya Pradesh 597

Ismail v Anis Fadhilah and Another 234

TABLE OF CASES

J

Jasri bin Abdul Rohim v Rahmah	251
Jaliah v Abu Bakar	304
Jinah v Abdul Aziz	114, 293, 303

K

Kamariah v Mansjur	119, 120, 318
Khatijah bt. Hassan v Ismail bin Haji Saad	104, 262

L

Lim Chan Seng v Pengarah Jabatan Agama Pulau Pinang and Another	608, 615, 618
Letchumy v Ramadasan	49

M

Mohamed v Azizah	125
Majlis Agama Islam Negeri Sembilan v Hun Mun	607
Majlis Agama Islam Pulau Pinang v Isa Abdul Rahman and Another	51, 608
Maimunah v Abdullah	306
Mamat bin Daud & Others v Government of Malaysia	332, 596
Mansjur v Kamariah	32, 120
Mashirah v Hussein	273
Mat Nordin v Ainon	320
Mohamad Habibullah v Faridah	41, 151, 231, 423, 608, 618, 620
Mohamed v Commissioner of Lands & Mines, Terengganu & Another	311
Minister of Home Affairs & Anor v Jamaluddin b Othman	330, 595
Md Hashim Lee v Majlis Agama Islam, W. Persekutuan	611

TABLE OF CASES

Mst Khurshid Bibi v Baboo Muhammad Amin	258
Mustafa v Habeeba	99, 250
N	
Nafsiah v Abdul Majid	41, 94, 232
Ng Wan Chan v Majlis Agama Islam & Anor	44, 333
Ng Siew Pian v Abdul Wahid b Abu Hassan and Another	48, 279, 344
Ningal Alias Yang Chik v Jamal bin Abdul Rahman	301, 316
Normah v Ahmad Kamaruddin	282
Nooranita v Faeiz	127
Noor Bee v Ahmad Sanusi	111, 290, 296
Nordin v Shaik Mohamed Meah Noordin	236
Normaidiah v Azhari	297
Noryati v Hamid	108, 286
P	
Piah v Che Lah	291, 297
Pedley v Majlis Agama Islam, Pulau Pinang and Another	44, 211, 216, 278, 280, 344, 349
R	
Rafiah v Hassan	274
Rahmah v Laton	133, 309
Ramlah v Muhammad	301
Ramli v Salleh	100, 251
Rahaniah v Haji Ujang	113, 110, 292, 299
Rokiah v Maidin	265
Rokiah v Mohamed Idris	115, 118, 120, 293, 302, 305, 317
Roberts v Umi Kalthum	41
Rosnah v Ibrahim	313
Rojmah v Mohsin	120, 253
Rosilah v Abdul Rahman	253

TABLE OF CASES

Re Husseinah Banoo	237
Re Mohamad Hussin and Hazimah	99, 251
Re Susie Teoh	325
Rosnani v San Ahmad	276
Rogayah v Bujang	120

S

Salmah v Soolong	236, 237
Sakdiah v Ahmad	273
Salemawegam v Mohamed Anuar	261
Sabariah v Zainol	313
Sharifah Laila v Abdul Latif	282
Sharifah Sapoyah v Wan Alwi	118, 293, 302
Sepiah bt. Sulaiman v Abdullah bin Mat Amin	311
Siti Zainab Mohamed Ishak	264
Soon Singh v Perkim Kedah and Another	610, 620
Syed Abdullah Shatiri v Sharifah Salmah	237
Shaik Abdul Latif and Others v Shaik Elias Bux	151
Siti Rohani v Mohd Sazali	107
Siti Aishah v Wan Abdul Aziz	123

T

Talib b. Salleh v Sepiah	103
Tan Sung Mooi v Too Miew Kim	49, 223
Terminello v Chicago	107
Tengku Anum Zahrah v Dato' Dr. Hussein	113, 116, 300, 314
Tengah v Ibrahim	310
The King v Chancellor of University of Cambridge	31
Tinta Press Sdn. Bhd. v Bank Islam Malaysia Bhd	456

V

Viswalingam v Viswalingam	210, 238
---------------------------	----------

TABLE OF STATUTES

A

Administration of Islamic Law
(Federal Territories) Act, 1993.

334

Administration of Muslim Law
Enactment 1962, Kedah.

337

Administration of Islamic Law Enactment,
Terengganu, 1955

310

Administration of Muslim Law Enactment,
Selangor 1952

44, 93, 332-334

Administration of Muslim Law Rules, 1953

44

Arbitration Act

148

B

Banking Act 1973

441

Banking and Financial
Institutions Act, 1989

442

C

Charter of Justice, 1862

20, 37

Civil Law Act 1956

20, 38, 57, 146, 193

Civil Law Enactment of 1937

57, 193

Civil Law Ordinance of 1956

38, 132, 193

Civil Marriage Ordinance

48, 212, 279, 344

TABLE OF CASES

TABLE OF STATUTES

Contract Act, 1950	147
Court Ordinance, 1948	133
D	
Divorce Reform Act, 1969	35
E	
European Convention for the Peaceful Settlement of Dispute, 1957	718
Evidence Act, 1956	50, 144
F	
Federal Administration of Islamic Law (Federal Territories) Act, 1994	228
G	
Government Investment Act, 1983	446, 447
Guardianship of Infants Act, 1961	41, 50, 144, 326, 327, 329
H	
Hire Purchase Act, 1967	478
Hire Purchase Act, (Amendment) Act, 1992	478
I	
Internal Security Act	331, 595
Islamic Banking Act 1983	431, 441, 505, 535

TABLE OF STATUTES

Islamic Family Law Act 1984	42
Islamic Family Law Enactments	28,97, 98, 107, 108, 215
Islamic Family Law (Federal Territory) Act 1984	47, 94, 95, 103, 105, 107, 108, 111, 144, 209, 210, 211, 215, 221, 232, 278, 280, 294, 295, 344, 348, 354
J	
Johore Islamic Family Law Enactment	271
K	
Kedah Islamic Family Law Enactment	270
Kelantan Islamic Family Law Enactment 1983	210, 233, 234, 236, 238, 269, 275, 308
Kelantan Shariah Courts And Matrimonial Proceedings Enactments, 1966	275
L	
Law Reform (Miscellaneous Provisions) Act, 1970	35, 94
Law Reform (Marriage and Divorce) Act, 1976	34, 35, 43, 44, 46, 48, 49, 53, 214-217, 221- 225, 278, 280, 281, 345, 346, 348, 350, 354, 355, 356,

TABLE OF STATUTES

Legal Profession Act, 1976

84

MMaintenance of Married Women's
and Children's Ordinance

219, 352

Malacca Islamic Family Law Enactment

276

Marriage Women Act, 1957

50

Married Women and Children
(Enforcement of Maintenance) Act 1968

53, 146

Mental Disorders Ordinance 1952

218, 270, 271

Moneylenders Act, 1951

469, 470

Muslim Courts (Criminal Jurisdiction)
Act, 1965

135

N

National Land Code

57, 145

National Language Act, 1963/67

148

P

Pawnbrokers Act, 1972

475, 477

Pawnbrokers Regulations, 1972.

477

Penal Code

636 - 638

Perak Islamic Family Law Enactment, 1994

244

TABLE OF STATUTES**INTRODUCTION**

Police Act	145
S	
Sale of Goods Ordinance, 1967	147
Selangor Administration of Muslim Law Enactment, 1952	93, 98, 106, 276
Selangor Islamic Family Law Enactment 1984	96, 109, 242, 252, 254, 276, 283, 286, 293
Shariah Civil Procedure Rules, 1992	57
Shariah Court Evidence (Federal Territories) Act, 1997.	706
Shariah Court and Matrimonial Causes Enactment, 1966	103
T	
Takaful Act 1984	506, 561,
Terengganu Administration of Islamic Religious Affairs Enactment, 1986	598, 600
Trustee Incorporation Act, 1952	473