

Cambridge University Press 978-1-107-00909-7 - The Logic of Law Making in Islam: Women and Prayer in the Legal Tradition Behnam Sadeghi Table of Contents More information

## **Contents**

Preface p Acknowledgments		page xi
		xix
Key	y Technical Definitions	xxi
1.	A General Model	1
	1.1. Revisability and Indeterminacy	1
	1.2. A General Model of Decision Making and Exegesis	8
	1.2.1. Motivation: The Islamic Case	8
	1.2.2. A General Model of Decision Making and Exegesis	11
	1.2.3. From an Individual to a Community	25
	1.3. Exegetic Rationales and Degrees of Hermeneutic Flexibility	26
	1.4. A Characterization of the Ḥanafīs	30
	1.4.1. Results	30
	1.4.2. Previous Work in the Field	34
2.	Preliminaries	40
	2.1. The Ḥanafī School and the Case Studies	40
	2.2. The Scholars	43
	2.3. "Undesirable" as a Technical Term	47
3.	Women Praying with Men: Adjacency	50
	3.1. The Formative Background	50
	3.2. Adjacency: The Two-Body Problem	53
	3.2.1. Partitions and Gaps	54
	3.3. Justification: "Keep Them Behind!"	56
	3.4. The Multibody Problem and the Origin of the	
	Adjacency Law	60
	3.5. New Justifications	65
	3.6. Adjacency: "Willing Out" Female Worshippers	71

vii



Cambridge University Press 978-1-107-00909-7 - The Logic of Law Making in Islam: Women and Prayer in the Legal Tradition Behnam Sadeghi Table of Contents More information

viii	Contents	
	3.7. Conclusion	74
	Excursus: Women Leading Men	74
4.	Women Praying with Women	76
	4.1. The Formative Background	76
	4.2. Formation of the Standard Position: Abū Ḥanīfa	
	to al-Marghīnānī	77
	4.3. Justifying the Standard Position: Al-Marghīnānī	
	to al-Bābirtī	81
	4.4. The Maverick: Badr al-Dīn al-'Aynī	87
	4.4.1. Arguing from Tradition	87
	4.4.2. The <i>Isnāds</i> of the Traditions	88 89
	4.4.3. Summing up al-'Aynī 4.5. On the Fence: Ibn al-Humām	91
	4.6. Later Hanafī Law	93
	4.7. The Counterexample from Funeral Prayers	96
	4.8. Two More Issues	99
	4.8.1. Does Leadership Really Entail Improper Exposure?	99
	4.8.2. Did the Abrogation Remove Permissibility?	100
	4.9. Concluding Remarks	101
5.	Women Praying with Men: Communal Prayers	105
	5.1. Introduction	105
	5.2. Early Ḥanafī Law: Abū Ḥanīfa to al-Qudūrī	106
	5.2.1. The Two 'Id Prayers	106
	5.2.2. The Daily and Friday Prayers	109
	5.2.3. After al-Ṭaḥāwī	112
	5.3. Al-'Aynī	118
	5.4. Ibn al-Humām's Recipe for Legal Change	120
	5.5. After Ibn al-Humām	124
6.	The Historical Development of Ḥanafī Reasoning	128
	6.1. The Forming Canon: Ḥanafī Beginnings	128
	6.2. The Shifting Canon: The Rise of Hadīth-Folk Ideology	135
	6.3. The Canon and Interpretation in Mature Ḥanafī Thought	136
7.	From Laws to Values	141
	7.1. Introduction	141
	7.2. The Acceptability of Laws Birthed by Unacceptable Values	143
	7.3. Justifications Need Not Reflect Motives	147
	7.4. Jurists' Reflections on Social Reality	148
	7.5. The Jurist as Part of a Corporate Entity	150
	7.6. From Laws to Society: What We Can Learn	153
	7.7. Conclusion: Seeing Law as Law Excursus: A Historian's "Public Reason"	154 161
	LAUTISUS, A HISTORIUM S I HOME REUSON	101



Cambridge University Press 978-1-107-00909-7 - The Logic of Law Making in Islam: Women and Prayer in the Legal Tradition Behnam Sadeghi Table of Contents More information

	Contents	ix
8.	The Logic of Law Making	163
	8.1. Introduction	163
	8.2. Reasoning with Legal Principles	166
	8.3. Formal Exegesis of the Canon	171
	8.3.1. Exegetic Rationales and Hermeneutic	
	Flexibility in Practice	174
Αp	pendix: The Authenticity of Early Hanafī Texts: Two Books	
of al-Shaybānī		177
•	Introduction	177
	The Corpora in the Kitāb al-Āthār and Their Common Features	179
	The P-Corpus	181
	The Q-Corpus	182
	The Relationship between P and Q	183
	The Date of P and Q	184
	Comparisons with al-Muwatta'	188
	The Question of Later Editing or Rewriting	191
	The Traditions about Abū Ḥanīfa and Ibrāhīm	192
	The Traditions of Mālik b. Anas	195
	Conclusion	195
	Postscript: Later Trajectories	196
Bil	pliography	201
	Ḥanafī Legal Texts	201
	Other Premodern or Early Modern Sources	204
	Modern Sources	205
Inc	Index	