



Legal system

By Nouhaila Bouhaidoura ,
group 20LL2

- **Content of the project :**

1. **The Islamic legal system :**

- General Characteristics
- History of its development
- Its Structure
- Its Sources

2. **Morocco's legal system :**

- As a dual legal system = Islamic +civil law
- History of development
- Modern Structure

Eg : Family law/Maudawana

- **Introduction :**

- **The fundamental religious concept of Islam, Sharia —namely, its law, Divine Law.**
- **It constitutes a system of duties that are incumbent upon all Muslims by virtue of their religious belief.**
- **The law represents a divinely ordained path of conduct that guides Muslims toward a practical expression of religious conviction in this world and the goal of divine favour in the world to come.**

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ISLAMIC LAW (SHARIAH)

1. General Characteristics of Islamic legal system :

- **Divine revelation**
- **Universality**
- **Completeness**
- **Flexibility**
- **Impeccability**
- **Constancy**
- **Inclusion**
- **Realism**
- **Mediate**



- Continuation of Characteristics of Shari'a :

- **DIVINE REVELATION + IMPECCABILITY** : That is, it is from God Almighty; All Islamic rulings are derived from the Qur'an (words of god) and the prophetic Sunnah (Normative precedents of the earliest Muslims community) therefore they are infallible and preserved from error.
- **UNIVERSALITY** : God Almighty sent His Prophet to convey the da'wah to all people, from Arabs and non-Arabs, east and west, regardless of their different backgrounds and the diversity of their customs and traditions, just as the law of Islam is suitable for application in every family, every society and every country, because its source is The God is the Truth

- **Continuation of Characteristics of the Shari'a :**

- **INCLUSION** : Sharia is not only spiritual, but includes everything that a person needs in his life, as it regulates a person's relationship with his Lord, his treatment of himself and his treatment of others, and no issue arises and does not have a legal ruling, either stipulated in the Book of God or the Prophet's Sunnah, or derived from universal issues and the general prescribed in the religion of Islam.
- **REALISM** : Sharia lines with human instinct and suits human nature, with its distinction of idealism, safety from error and the possibility of application. Society's survival in a normal state

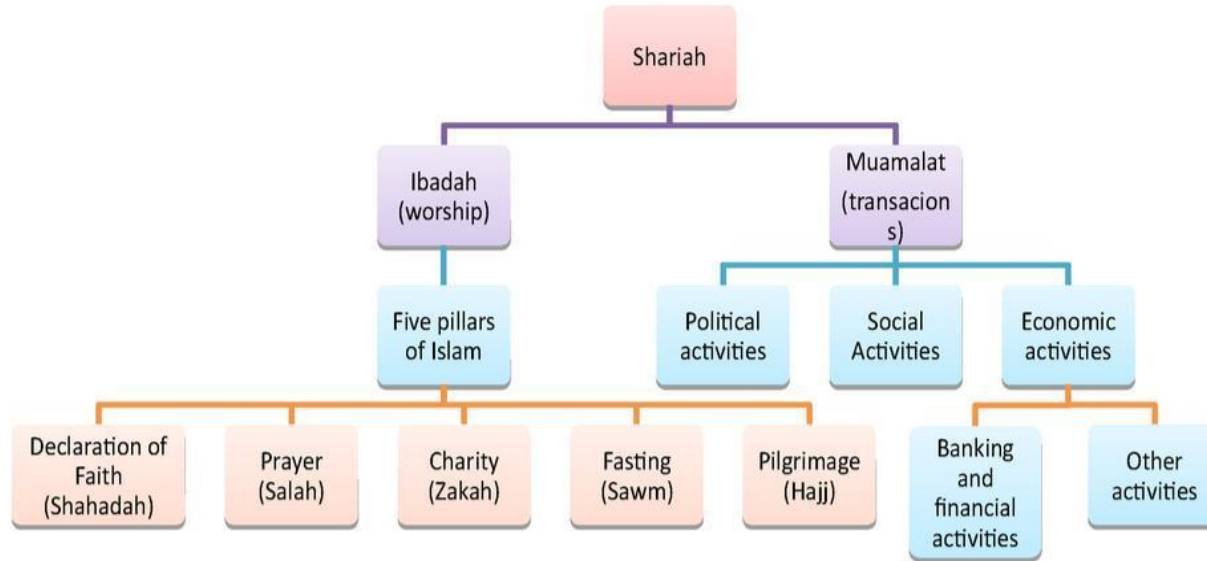
2. History of its development:

- **For the first Muslim community, established under the leadership of the Prophet Muhammad at Medina in 622, the Qur'ānic revelations laid down basic standards of conduct. But the Qur'ān is in no sense a comprehensive legal code: only about 10 percent of its verses deal with legal issues. During his lifetime, Muhammad, as the supreme judge of the community, resolved legal problems as they arose by interpreting and expanding the general provisions of the Qur'ān, thereby establishing a legal tradition that was to continue after his death. With the rapid expansion of the Islamic realm under Muhammad's political successors, the Muslim polity became administratively more complex and came into contact with the laws and institutions of the lands that the Muslims conquered. With the appointment of judges, or qadis, to the various provinces and districts, an organized judiciary came into being. The qadis were responsible for giving effect to a growing corpus of administrative and fiscal law, and they pragmatically adopted elements and institutions of Roman-Byzantine and Persian-Sasanian law into Islamic legal practice in the conquered territories.**

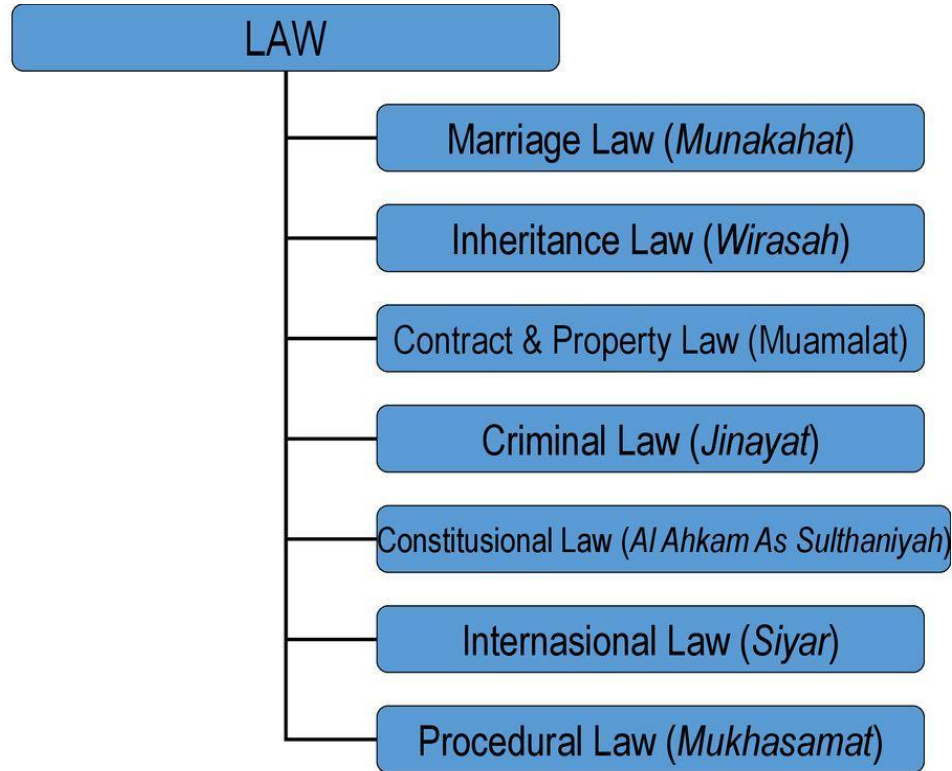
- **Continuation of the historical development of Islamic law :**

- Depending on the discretion of the individual qadi, judicial decisions were based on the rules of the Qur'ān where these were relevant, but the sharp focus in which the Qur'ānic laws were held in the Medinan period was lost with the expanding horizons of activity.
- Muslim jurisprudence, the science of ascertaining the precise terms of the Sharī'ah, is known as fiqh (literally, "understanding"). Beginning in the second half of the 8th century, oral transmission and development of this science gave way to a written legal literature devoted to exploring the substance of the law and the proper methodology for its derivation and justification. Throughout the medieval period, the basic doctrine was elaborated and systematized in a large number of commentaries, and the voluminous literature thus produced constitutes the traditional textual authority of Sharī'ah law.

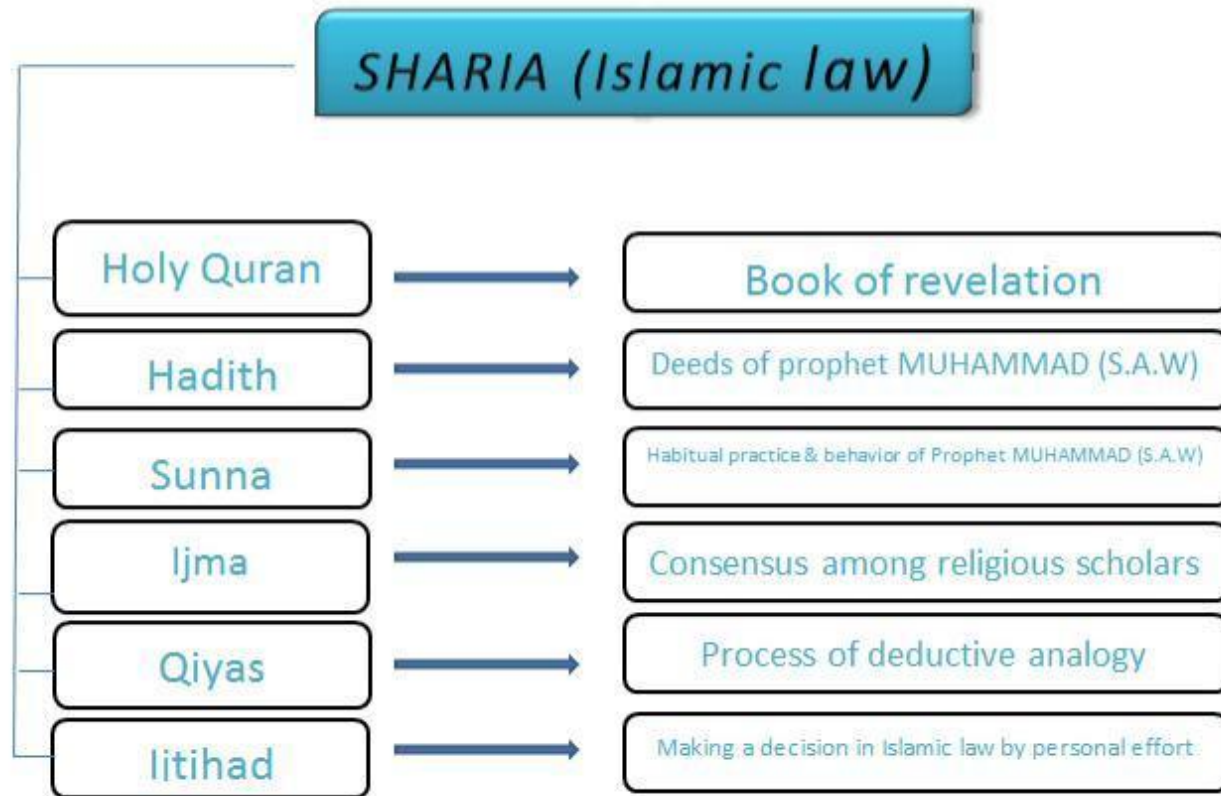
3. Structure of Islamic law:



- Continuation of its structure :



4. Sources of Islamic law:



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MOROCCO'S LEGAL SYSTEM

1. Moroccan law :

- Since independence, Moroccan law has been shaped by French Civil Law and a combination of Muslim and Jewish traditions. The Constitution of Morocco has also played a pivotal role in shaping the law and legal system in Morocco. The most recent constitutional developments took place following the 'Arab Spring.' Following this uprising, Morocco drafted and adopted a new constitution in July 2011. The Moroccan political and constitutional context represents an interesting situation in that it has a reigning monarch that has been in power for more than three centuries.



- Morocco 's law :

- Morocco has established civil, criminal, and commercial codes, as well as outlining procedure for such cases. Although the Family Code is likewise codified in a format not unlike the civil code, it finds its source more readily in religious teachings. The Moudawana is also distinguished from this general practice of the civil code because it does not apply universally among Moroccans; Christian and Jewish citizens are not held to the same Islam-based law that applies to Muslim citizens. True to its French civil code roots, Moroccan case law does not have binding precedent, but can serve as persuasive rhetoric.
- The final and preeminent source of the Moroccan legal system is Islamic law. Despite its history of tolerance and diversity, modern day Morocco is rather homogenous. Ninety-nine per cent of the population is Muslim, and of them, virtually all are Sunnis, less than 0.1 per cent is Shi'a Muslims. Other one per cent is Christian, Baha'i, and Jewish. The Muslims have been present in Morocco since the 7th century, when soldiers of the Prophet Mohammed spread throughout North Africa. In 1961, Islam was declared the official state religion, but maintained the full religious freedom accorded to Christians and Jews.

• Moroccan law:

- Moroccan law is based on Sharia law as rooted in the legal system of Sunni Islam. Sunni Muslims regard themselves as the more traditional and orthodox branch of Islam. The name Sunni comes from Ahl alSunna, meaning people of the tradition. The two branches were divided over who should succeed Mohammed as leader of the Muslim community: Sunnis believed the successor should be one who had attained seniority, demonstrated piety, and had adequate qualifications, whereas Shi'ites believed it should pass to his descendants. Sunni Muslims also differ from Shi'ites because they do not exalt leaders the way they do prophets and, thus, have a less elaborate and rigid religious hierarchy. There are four schools of Sunni teachings; Morocco law follows the teachings of the Maliki school of thought. Under the Maliki teachings, legal decisions are based more on community practice, traditions, and analogous reasoning than strict adherence to hadith – the sayings of the Prophet and his companions.
- Sharia law is assured through the constitutional provisions naming the King as Commander of the Faithful, tasked with ensuring respect for Islam throughout the legal system. Where civil law governs contracts, commercial law, administrative law, civil procedure, and criminal law; Sharia law applies to family law, succession, and personal status. Islamic law is pronounced in first instance courts by Taoutiq judges with assistance from traditional clerks, Adouls.

2. Modern Structure of the Legal System:

- **Morocco's legal system embodies the principles of its mixed lineage. It is a constitutional, democratic, parliamentary, and social monarchy. The King presides over both the legislative and executive branches and it is his duty to ensure compliance with the Constitution and the perpetuation of the state. As Commander of the Faithful, he must also ensure that the laws of Morocco do not contravene Islamic obligations. He exercises his governmental authority through appointment of his Cabinet.**
- **The executive branch consists of the Prime Minister and ministers. It is responsible for administrative law and introducing certain proposed legislation and issues for decision by the legislative branch.**
- **Parliament is the main body in control of the legislature and is divided into two houses: the House of Representatives and the House of Counsellors. Parliament meets for two normal sessions per year, but can be convened for additional special sessions by decree. The House of Representatives is elected for five-year terms by popular vote, whereas the House of Counsellors is elected for six-year terms by regional electoral colleges and a national Electoral College representing working Moroccans. Parliament is responsible for proposing and passing most bills.**
- **The judicial branch is the only branch of Government that is not subject to the King's direct supervision, and the Constitution further proclaims its independence from the legislative and executive authority. The King is the guarantor of this independence. The judiciary is divided into three types of courts: general jurisdiction courts, specialised courts, and special courts .**

3. Family law in Morocco/ Moudawana :

- In October 2003, King Mohammed VI announced a draft family law in the Moroccan Parliament and it was then made available for consultation. “During the next few months, women’s rights organisations ... analysed the ... draft legislation and organised workshops, roundtables, and discussion groups to prepare for renewed lobbying efforts in Parliament.”
The final text of the Moudawana (‘Personal Status Code’) reform (2004) secured several important rights for women, including the rights to self-guardianship, divorce, and child custody. “It also placed new restrictions on polygamy, raised the legal age of marriage from 15 to 18, and made sexual harassment punishable by law.”



- Continuation of family law in Morocco:



- **The Moudawana, the family code that governs areas of family law such as marriage, divorce, inheritance, and child custody, was first adopted in Morocco in 1958, two years after it gained its independence from France. It gave few rights to women, despite their central position in the family structure around which Moroccan society was based. Under the Moudawana, men could engage in polygamy without their wives' consent and could unilaterally divorce any of their wives. Women could not marry without legal approval from a guardian. Married women were obliged by law to obey their husbands and their right to divorce was tightly restricted.**

- Continuation of family law in Morocco :

- There had been a growing feminist movement in Morocco in the 1960s, as in the rest of the world. From the 1980s onwards, the feminist movement had to contend with the growing support for Islamism. “The Islamists’ ideology appealed particularly to young, unemployed males who were easily led to believe that women working outside the home robbed them of opportunities.” By the early 1990s, many women considered the Moudawana to be archaic and oppressive and wanted to secure equal rights for women under the law. The question was how to achieve the necessary reform.



• **CONCLUSION :**

TO SUMMARIZE THE TOPIC OF “ LEGAL SYSTEM OF THE WORLD “ , THERE ARE 4 TYPES OF LEGAL SYSTEMS : CIVIL , COMMON , ISLAMIC AND HINDU . AND WHEREVER THE TYPE WAS ,WHEREVER ITS CHARACTERISTICS , ALL THE LEGAL SYSTEMS SERVE THE SAME GOALS : REGULATE THE HUMAN CONDUCT AND MAINTAIN THE ORDER AND THEY ARE COMPULSORY FOR ALL PEOPLE .

THANK YOU