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A Textbook on Muslim Personal Law & An Experiment with 'Case Method'

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1. Muslim Law & Muslim Personal Law

The Family Laws, a term used interchangeably in most discourses with 'Personal Laws' is subsumed under the General Law category. Family laws or Personal Laws are those laws that govern a particular religious community and are consonant with the belief of and apply to the regulation of that community and its adherents. These laws encompass important areas of a person's life, such as birth, marriage, death, and property rights and so on.

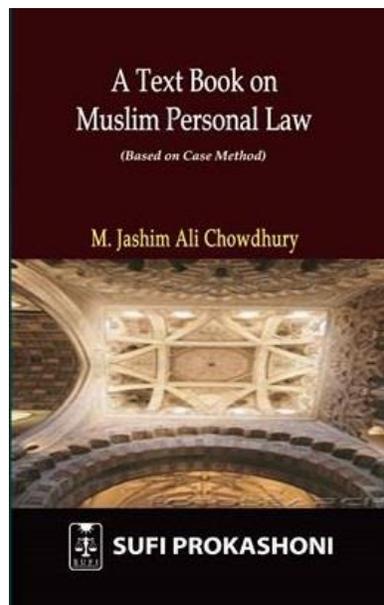
2. On Study of Law in General

The study of Muslim Personal Law is an integral part of the law curriculum and legal education in Bangladesh. But there is an acute shortage of quality legal text books authored by our native writers and as far as the Muslim Personal Law is concerned there is scarcity of student-friendly text books dealing comprehensively with the issues of Muslim Personal matters. Furthermore, as we inherited our legal structure from common law orientation, the legal education through case-study bears extra-ordinary relevance and utmost significance. But unfortunately case-study based law education has not been developed in Bangladesh and case-method base text books are also mostly unavailable.

3. On the Author

M. Jashim Ali Chowdhury, the author of the book under review is an Assistant Professor

of Law in the University of Chittagong who is acclaimed as one of the brightest young scholars of Bangladeshi legal arena not merely for his academic excellence but for his outstanding demonstration in research skills, publications, analytical ability on distinct legal issues, quintessentially gifted voice and mesmerizing teaching attributes. He has already authored a handful of quality text books on different issues of law which earned scholarly credits and appreciation by the time.



3. A glimpse on the Book

The book titled 'A Text Book on Muslim Personal Law' is unique in the sense that it has been written with a contemplation to curve our reliability on foreign books which deal heavily with orthodox principles of Sharia leaving aside the ground realities our native administration of justice. The author tried his best to bring out the Muslim Personal Law with an outstanding combination of theory and practice. Being a handy text book it attracts a very flexible

readership with the theoretical analysis while on the other hand the author successfully demonstrated how these theories and statutory laws have been interpreted and applied through the judicial activism. The case method of presenting the issues of Muslim Personal Law is a unique bridge between the facts and fiction, theory and practice, laws and reality.

Though it is a text book it has gained the scholarly appreciation as it is a well-researched book providing with a reliable

checklist of the identifiable features of the Muslim Personal Law and summarizes the fundamental notions of Muslim Personal Law in a precise yet lucid language.

4. Deep Within

The book contains a total of sixteen chapters exhaustively covering almost all the issues evolving around the Muslim Personal Law. One of the distinguishing features of the book under the review is that every chapter is concluded with a compilation of case studies relevant with the topic of that particular chapter.

The first chapter introduces the Muslim Personal Law from its jurisprudential purview along with its orientation, nature, roots and sources. The author succinctly presents how the dichotomy between the statutory law and sharia law as regards Muslim Personal Law is maintained through the legislative interventions.

The second chapter deals with the Muslim Marriages, a significant aspect of Muslim Personal Law. Because of the legislative interventions the classical sharia laws regarding the marriage have gone through massive changes and reformations. In this context this chapter offers a legible legal analysis of these contentious issues which include *inter alia* the present status of Hilla marriage, Muta marriage, subsequent marriage without prior permission and the crux of polygamy.

Chapter three, four and five relatively lay down the doctrinal principles dealing with the Parentage, Restitution of Conjugal Rights and Maintenance respectively along with the relevant judicial interpretations and decisions on the same.

Chapter six is about the Dower, another important issue of Muslim Personal Law. People often get confused by the resemblance of the terms 'Dowry' and 'Dower' which leave the people misguided. In this chapter the distinction between the dowry and dower has been clearly pointed out.

The author elaborately discussed about the Divorce under Muslim marriages in chapter seven taking into account the orthodox Sharia law, statutory reforms and judicial interventions as well. In this chapter the author precisely made an appraisal of the contrasts, confusions and contradictions between the classical Sharia Law and reformed statutory law regarding the present status of Hilla marriage, the process of divorce under MFLO, 1961, registration of divorce and divorce by oral pronouncement.

The chapter eight contains a conclusive discussion over the doctrinal and judicial interpretation of the concept of guardianship& custody under Muslim Personal Law.

Though Family Court is an integral part of the administration of justice relating to the personal issues of religious communities, yet there was no comprehensive academic and practical focuses on the jurisdiction, exclusiveness and litigation procedures of the family courts. The chapter nine exclusively deals with the issues pertinent to family courts along with a vast compilation of judicial references.

The other chapters critically analyzed the distinct principles of Muslim law relating to Gift, Will, Pre-emption, Waqf etc.

Chapters fourteen to the concluding chapter sixteen made an elaborate and exhaustive discussion on the law of inheritance under Muslim Personal Law. The concluding chapter contains a special discussion on the 'Doctrine of Representation' which is an outcome of legislative reforms in the classical sharia law.

5. Last but not the least

I do not really find any major point for criticism. In the introductory chapter there is a very brief discussion on Uniform Family Code. But I think it is being one of the burning issues of the time, deserves a more detailed analysis. Domestic violence is also a relevant topic with the family issues though it

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is not under the jurisdiction of family court. The book under the review is surprisingly silent on it. An insightful discussion over these issues would profitably accomplish and enrich the book.

The book is an outstanding contribution to the field of Muslim family law and will undoubtedly sway the field for many years to come. I wish, the book will be warmly welcomed by the students of law, the Bar and the Bench particularly and everyone who is interested in the study of Muslim Personal law, in general.

Professor Langdell & His 'Case Method'

Case Method is a system of instruction or study of law focused upon the analysis of court opinions rather than lectures and textbooks. Currently this is the most predominant method of teaching in U.S. law schools today. *Christopher Columbus Langdell*, a Harvard law professor, often receives credit for inventing the case method although historians have found evidence that others were teaching by this method before him. Regardless, Langdell by all accounts popularized the case method.

Langdell viewed the law as a science and believed that it should be studied as a science. Law, he said, "consists of certain principles or doctrines. To have such a mastery of these as to be able to apply them with constant facility and certainty to the ever-tangled skein of human affairs, is what constitutes a true lawyer; and hence to acquire that mastery should be the business of every earnest student of law."

Langdell's beliefs differed from those of his law professor colleagues. Throughout the 1800s, the prevalent approach for teaching law school classes was the lecture method. Although professors and textbooks interpreted the meaning of various court decisions, they did not offer a significant opportunity for students to do so on their

own. The case method, on the other hand, forced students to read, analyze, and interpret cases themselves. It was Langdell's opinion that law students would be better educated if they were asked to reach their own conclusions about the meaning of judicial decisions.

Langdell's ideas were, at first, overwhelmingly rejected by students, other law professors, and attorneys alike. These critics viewed the case method as chaotic compared with organized lectures. They believed that instead of soliciting law students' opinions regarding cases, professors should simply state their own interpretations. Law students, afraid that they were not learning from Langdell's method, dropped out of his class, leaving him with only a few pupils. Enrollment in the Harvard Law School decreased dramatically because of concern over Langdell's case method and alumni called for his dismissal.

But the President of Harvard University, Charles W. Eliot, supported Langdell and his case method. This backing allowed Langdell to withstand the criticism long enough to prove the case method's success: Langdell's students were becoming capable, skilled attorneys. In 1870 Langdell became law school dean. As time passed he replaced his critics on the Harvard faculty with Professors who believed in his system of teaching and the case method soon became the dominant teaching method at Harvard. Other U.S. law schools took note. By the early 1900s, most had adopted the case method, and it remained the primary method of legal instruction throughout the twentieth century and beyond.

For Details See:

Russel L Weaver. "Langdell's Legacy: Living with the Case Method." *Villanova Law Review* 36 (1991); Available Online: <http://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=2739&context=vlr>