

Contents

VIII	Guaranty <i>Al-Kafālah</i>	1
57	Legality and Cornerstones	5
57.1	Legality	5
57.2	Definition	6
57.3	Cornerstone	8
57.3.1	Guaranty language	9
57.3.2	Types of guaranty	9
57.3.3	Modes of guaranty	9
	A. Unrestricted guaranty	10
	B. Restricted guaranty	10
	C. Suspended guaranty pending a condition	11
	Suspending financial guaranty on physical guaranty	12
	D. Deferred guaranty	13
	Options in guaranty	13
58	Guaranty Conditions	15
58.1	Contract language conditions	15
58.2	Guarantor conditions	16
58.3	Debtor conditions	16
58.4	Creditor conditions	17
58.5	Guaranteed object conditions	18
	Guaranty of future liabilities	22
	Guaranty of an unknown liability	23
59	Contract Status	25
59.1	Seeking compensation from the guarantor	25
59.1.1	Absolution of guaranteed debtors	26
59.2	Seeking compensation from the principal debtor	28
60	Guaranty Termination	29
60.1	Guaranteed property	29
60.1.1	Debt repayment	29
60.1.2	Absolution	30
60.1.3	Miscellaneous	30

60.2	Guaranteed persons	31
60.2.1	Delivering the guaranteed person	31
60.2.2	Absolution	32
60.2.3	Death of the guaranteed person	32
60.3	Guaranteed non-fungibles	32
61	Seeking compensation from the principal	33
61.1	Conditions for seeking compensation	33
	Multiple guarantors	36
61.2	Permissible sought compensation	36
61.3	Time to seek compensation	37
62	Contemporary Guaranty for a Fee	39
	Letters of Credit	39
63	Applications to Modern Guaranties	41
63.1	Major forms of commercial guaranties	41
63.2	Letters of credit	42
63.3	Commercial insurance	42
63.4	Guaranties for residents and visitors	44
IX	Transfer of debt (<i>Al-Hawālah</i>)	47
64	Definition, legality, and cornerstone	51
64.1	Definition	51
64.2	Legality	51
64.3	Cornerstone	52
65	Transfer of debt Conditions	55
65.1	Contract language conditions	55
65.2	Transferor conditions	55
65.3	Transferred party conditions	56
65.4	Transferee conditions	56
65.5	Transferred item	56
	Restricted and unrestricted transfers of debt	58
	Transfer of rights	60
66	Legal Status	63
66.1	Absolution of the transferor	63
66.2	Right to demand repayment	64
66.3	Right of pursuit	64

67	Contract Termination	67
67.1	Voiding	67
67.2	Death or bankruptcy	67
67.3	Debt repayment	69
67.4	Death of the creditor or debtor	69
67.5	Gift	69
67.6	Charity	69
67.7	Absolution	69
68	Compensation of the Transferee	71
68.1	Conditions for demanding compensation	71
68.2	Type of compensation	72
68.3	Transferor-creditor disagreements	72
68.4	Contemporary bills of exchange	72
X	Pawning/Mortgage (<i>Al-Rahn</i>)	75
69	Definition, Legality & Cornerstones	79
69.1	Definition	79
69.2	General characterization	80
69.3	Legality	80
69.4	Non-bindingness	82
69.5	Cornerstones and components	82
69.6	Forms of pawning	83
70	Pawning Conditions	85
70.1	Contracting party conditions	85
70.1.1	Eligibility	85
	Guardian and plenipotentiary pawning	86
	1. Pawning in lieu of a child's or insane person's debt	86
	2. Pawning in lieu of a debt of the guardian's	87
	3. When the child reaches legal age	88
	Multiple transacting parties	88
70.2	Contract language conditions	90
70.3	Underlying debt conditions	93
70.3.1	First Ḥanafī condition	93
70.3.2	Second Ḥanafī condition	98
70.3.3	Third Ḥanafī condition	99
70.3.4	Shāfi'ī and Ḥanbalī conditions	99
70.3.5	Mālikī conditions	100
70.4	Pawned Object Conditions	101
70.4.1	Eligibility for sale	101
70.4.2	Being a property	102
70.4.3	Being valued	103
70.4.4	Being known	103

70.4.5	Being owned	104
70.4.6	Not being attached	105
70.4.7	Being separate	105
70.4.8	Being clearly identified	105
70.5	Receipt of the Pawned Object	106
	Non-Mālikī rulings	106
	Mālikī ruling	106
70.5.1	Means of receipt	107
	Mortgaged real estate	108
70.5.2	Conditions of receipt	108
	1. Permission of the debtor	109
	2. Eligibility of contracting parties	110
	3. Permanency of receipt	111
	Pawning received items	112
70.5.3	Receivers of pawned objects	115
	Trustee rulings	115
	The trustee as an agent	116
	Multiple trustees	117
	Relieving a trustee	117
	Trustee rights and obligations	119
70.6	Specific consequences of pawning conditions	122
70.6.1	Pawning an unidentified property share	123
	The Ḥanafī ruling	123
70.6.2	Pawning connected or occupied properties	125
70.6.3	Pawning fungible liabilities	126
70.6.4	Pawning leased or lent non-fungibles	127
70.6.5	Pawning borrowed items	128
	Ḥanafī rulings	129
	Mālikī ruling	130
	Shāfiʿī and Ḥanbalī rulings	130
	Utilizing the borrowed property	130
	Types of guaranty	131
	Demands to release the pawned object	131
	Leasing to pawn	132
70.6.6	Pawning the property of others	132
70.6.7	Pawning a pawned item	134
70.6.8	Pawning part of an indebted estate	136
70.6.9	Pawning perishables	138
70.6.10	Pawning fruit juices	139
70.6.11	Pawning religious books	139
71	Legal Status and Consequences	141
	Status of valid pawning	142
	Bindingness of valid pawning	142
	Consequences of the pawning contract	143
71.1	Association of the underlying debt	144

71.2	The right to hold the pawned object	146
71.2.1	Demanding repayment	148
71.3	Safeguarding the pawned property	149
71.4	The pawned objects' expenses	150
71.5	Utilization of the pawned property	152
71.5.1	Pawning debtor utilization	152
71.5.2	Creditor utilization of the pawned property	154
71.6	Dealing in the pawned property	159
71.6.1	Pawning-debtor dealings	159
	Prior to receipt	159
	After receipt	160
71.6.2	Creditor dealings	163
71.7	Guaranteeing pawned property	165
71.7.1	The creditor's possession	166
71.7.2	Types of guaranty	167
	Hanafi rulings	167
	Non-Hanafi rulings	169
71.7.3	Consumption of the pawned property	170
71.8	Selling pawned property	171
71.8.1	Right to sell	171
	Voluntary sales	171
	Obligatory sale	173
71.8.2	Selling perishable pawned property	174
71.8.3	Priority claims of the creditor	175
71.8.4	Transfer of ownership to the creditor	175
71.8.5	Third party entitlement after sale	176
71.9	Delivery of pawned property	177
	Debt termination	178
	Pawning termination	179
	Delivery timing	179
	Delivery location	180
71.9.1	Rulings for defective pawning	181
72	Growth of pawned property	183
72.1	Adding to the pawning or the debt	184
73	Pawning Contract Termination	187
74	Debtor-Creditor Disputes	191
74.1	Disputes over the underlying debt	191
74.2	Destruction of the pawned property	192
74.3	Disputes over receipt	192
74.4	Disputes over the time of destruction	193
74.5	Disputes over the pawned property	193
74.6	Disputes over possession	193

XI Settlement (<i>Al-Ṣulh</i>)	195
75 Definition, Legality, and Cornerstones	199
75.1 Definition	199
75.2 Legality	199
75.3 Types of settlement	200
75.3.1 Shāfiʿī classification	203
Settlement with the claimed debtor	203
Settlement with a third party	205
Contracts implied by settlements	205
75.4 Cornerstones of Settlement	206
76 Settlement Conditions	207
76.1 Contract Language Conditions	207
76.2 Conditions for the settling party	207
76.3 Settlement compensation conditions	208
76.3.1 It must be a property	208
Acknowledged claims for non-fungibles	209
Acknowledged claims for fungibles	210
Monetary debts	210
Non-Monetary debts	212
Liability for an animal	213
Compensating with usufruct	214
76.3.2 It must be valued property	215
76.3.3 Ownership	215
76.3.4 Knowledge	215
76.4 Underlying liability conditions	215
76.4.1 Liability to man	215
Settling uncertain liabilities	217
76.4.2 A right of the claimant	218
76.4.3 The claimant's right must be established	218
Settlement in lieu of defective merchandise	221
Claimant settlement with a third party	222
77 Legal Status	225
78 Invalid Settlements	229
78.1 Invalidating factors	229
78.2 Legal status after voiding	230
78.3 Estate settlements	230
XII Absolution (<i>Al-'Ibrā'</i>)	233
79 Definition and Legality of Absolution	237
79.1 Definition	237

79.2	Legality	238
80	Absolution Cornerstones	239
80.1	Is acceptance necessary?	239
80.2	Rejecting absolution	240
81	Absolution Conditions	243
81.1	Absolving creditor conditions	243
81.1.1	Absolution agency	244
81.1.2	Absolution by a dying creditor	244
81.2	Absolved debtor conditions	245
81.3	Absolved debt conditions	245
81.4	Absolution language conditions	247
82	Objects of Absolution	253
82.1	Non-fungible properties	253
82.2	Fungible debts	254
82.3	Absolution of legal rights	254
82.3.1	Absolution of alimony	255
82.3.2	Mutual absolution of spouses	255
82.3.3	Absolution of the right to level a charge	255
83	Absolution Types	257
83.1	Generality of absolutions	257
83.2	Absolution timing	257
83.3	Dropping vs. repayment absolutions	258
84	Legal Status	259
84.1	Charges after general absolution	260
84.2	Compensated absolution	260
XIII	Entitlement (<i>Al-'Istihqāq</i>)	263
85	Definition and Consequences	267
85.1	definition	267
85.2	Legal Consequences	267
85.2.1	Proofs of entitlement claims	268
85.2.2	Self-contradicting claims	269
86	Rulings for Specific Contracts	271
86.1	Sales and barter	271
86.1.1	Ḥanafī rulings	271
	(i) Partial entitlement of the merchandise	271
	(ii) Full entitlement of the merchandise	272
	(iii) Entitlement to withholding rights	273
86.1.2	Mālikī rulings	274

86.1.3	Shāfiʿī rulings	274
86.1.4	Ḥanbalī rulings	275
86.2	Entitlement of a pawned object	276
86.2.1	Ḥanafī rulings	276
86.2.2	Mālikī rulings	276
86.2.3	Shāfiʿī rulings	277
86.2.4	Ḥanbalī rulings	277
86.3	Division of joint property	278
86.3.1	Ḥanafī rulings	278
86.3.2	Mālikī rulings	278
86.3.3	Shāfiʿī rulings	278
86.3.4	Ḥanbalī rulings	279
86.4	Effect in settlements	279
86.4.1	Ḥanafī rulings	279
86.4.2	Mālikī rulings	280
86.4.3	Shāfiʿī rulings	281
86.4.4	Ḥanbalī rulings	281
86.5	Effect on lease and hire	281
86.5.1	Ḥanafī rulings	281
86.5.2	Mālikī rulings	282
86.5.3	Shāfiʿī rulings	282
86.5.4	Ḥanbalī rulings	282
86.6	Effect on crop-sharing	283
86.6.1	Ḥanafī rulings	283
86.6.2	Mālikī rulings	283
86.6.3	Shāfiʿī rulings	283
86.6.4	Ḥanbalī rulings	283
86.7	Effect on marriage	284
86.7.1	Appropriation of the dowry	284
	Ḥanafī rulings	284
	Mālikī rulings	284
	Shāfiʿī rulings	284
	Ḥanbalī rulings	285
86.7.2	<i>Khulʿ</i> (divorce at the instance of the wife)	285
	Ḥanafī rulings	285
	Mālikī rulings	285
	Shāfiʿī rulings	286
	Ḥanbalī rulings	286
86.8	Effect on wills and mortmain	286
86.9	Ḥanafī rulings	286
86.10	Shāfiʿī rulings	287
86.11	Ḥanbalī rulings	288

87 Entitlement to Sacrificial Animals	289
87.1 Ḥanafī rulings	289
87.2 Mālikī rulings	290
87.3 Shāfi'ī rulings	290
87.4 Ḥanbalī rulings	290
XIV Debt-Clearance (<i>Al-Muqāṣṣah</i>)	291
88 Definition and Legality	295
88.1 Definition	295
88.2 Legality	295
89 The Object of Debt-Clearance	297
90 Types of Debt-Clearance	299
90.1 Obligatory debt-clearance	299
90.1.1 Conditions of obligatory debt-clearance	299
1. Correspondence of the two debts or rights	300
2. Equality of the two cleared debts	300
3. The no-harm clause	302
4. Avoidance of prohibitions	303
90.1.2 Voluntary debt clearance	303
90.1.3 Forbidden debt clearance	303
1. Currency exchange	303
2. The price of <i>salam</i>	305
3. The object of <i>salam</i>	305
4. The price of a voided <i>salam</i>	306
5. Suspicion of <i>ribā</i>	306
91 Consequences of Debt-Clearance	307
91.1 Voiding debt clearance contracts	308
XV Coercion (<i>Al-'Ikrāh</i>)	311
92 Nature and types	315
92.1 The nature of coercion	315
93 Coercion Conditions	317
94 Coerced Physical Actions	321
94.1 Rulings for the hereafter	321
94.1.1 Permissibility due to coercion	321
94.1.2 Licentious allowance due to coercion	322
94.1.3 Forbidden actions	324
94.2 Rulings for this world	325

94.2.1	Permissibility due to coercion	325
94.2.2	Licentious allowance due to coercion	326
94.2.3	Forbidden actions	328
94.3	Coercion to take one of two actions	330
95	Legal Actions	333
95.1	Binding legal actions	333
95.2	Non-binding actions	336
95.3	Coerced acknowledgement of liability	337
95.4	Coercion with some choice	338
XVI	Interdiction	341
96	Definition and Legality	345
96.1	Definition	345
96.2	Proof of legality	347
96.3	The wisdom in permitting interdiction	347
96.4	Types of interdiction	349
97	Reasons for Interdiction	351
97.1	Young children	351
97.1.1	Consequences of a child's dealings	351
97.1.2	Withholding the child's property	353
97.1.3	Reaching puberty	356
97.1.4	Discernment	358
97.1.5	Guardians and plenipotentiaries	358
97.1.6	Guardian dealings in a child's property	360
Ḥanafī	rulings	360
Mālikī	rulings	362
Shāfi'ī	rulings	363
Ḥanbalī	rulings	364
97.1.7	Authorizing the interdicted	366
Guardian	wages	368
97.2	Insane individuals	368
97.3	Idiots	368
97.4	The mentally incompetent	369
97.4.1	Ḥanafī rulings	369
97.4.2	Mālikī rulings	372
97.4.3	Shāfi'ī rulings	373
97.4.4	Ḥanbalī rulings	374
97.5	Stupid individuals	377
97.5.1	Commencement and end of interdiction	377
97.6	Muslim sinners	378
Note on	absent individuals	378
97.7	Public interest	378

97.8	The terminally ill	379
97.9	Married women	381
97.9.1	Digression on charitable contributions	382
97.10	The bankrupt	383
97.10.1	Definition of bankruptcy	383
97.10.2	Interdiction of the bankrupt	384
97.10.3	The need for a court order	384
	Mālikī rulings	384
	Non-Mālikī rulings	385
97.10.4	Travel of a bankrupt debtor	387
97.10.5	Consequences of interdiction	387
	1. Creditor rights	388
	2. Maturity of deferred debts	389
	3. Precautionary incarceration and monitoring	389
	4. Selling the debtor's property	394
	5. Taking repayment in kind	395
98	Ending Interdiction	405
98.1	Mental incompetence & insanity	405
98.2	Interdicted children	405
98.3	The bankrupt	406
99	Indebted Estates	409
99.1	Deferred debts	409
99.2	Attaching debts to the estate	410
99.3	Inheritance	411
99.3.1	Preferred ruling	411
99.3.2	Minority ruling	412
XVII	Ownership and its characteristics	413
100	Definition of Ownership	417
101	Eligibility for Ownership	419
102	Types of Ownership	421
103	Partial Ownership	423
103.1	Ownership of the property alone	423
103.2	Personal usufruct ownership	423
103.2.1	Simple loans	424
103.2.2	Leases	424
103.2.3	Mortmains	424
103.2.4	Bequeathed usufruct	424
103.2.5	Permission	425
	Personal usufruct ownership	425

Expiration of the usufruct extraction period	426
103.3 Easement rights	427
103.3.1 Water rights	427
103.3.2 Water-flow rights	428
103.3.3 Drainage rights	428
103.3.4 Passage rights	428
103.3.5 Neighboring rights	428
103.4 More on Easement Rights	429
103.4.1 Easement vs. personal usage rights	430
103.4.2 Special rulings for easement rights	430
103.4.3 Origins of easement rights	430
104 Establishment of Total Ownership	433
104.1 Claiming ownerless property	434
104.1.1 Land reclamation	435
104.1.2 Hunting	435
104.1.3 Grass and forests	435
104.1.4 Mining and treasure-hunting	436
Rulings for minerals	436
Treasure rulings	437
104.2 Ownership-transferring contracts	438
104.3 Succession	439
104.4 Derivation from owned property	439
105 Is Private Ownership Absolute?	441
105.1 introduction	441
105.2 Property and ownership in Islam	442
105.3 Constraining ownership	443
105.4 Specific ownership constraints	446
105.4.1 Avoidance of harm	447
105.4.2 Ineligibility for private ownership	447
105.4.3 Social rights in private property	449
XVIII Ownership-Related Topics	453
106 Land-Related Rulings	457
106.1 Conquered land	457
106.1.1 Land conquered by force	457
Proofs	459
Is the ruler bound to divide the land?	459
Proofs of the option to establish land as a mortmain	460
106.1.2 Abandoned lands	462
106.1.3 Lands captured by treaty	464
106.2 Lands within the Islamic state	465
106.2.1 Owned useful land	465

106.2.2	Owned wasteland	465
106.2.3	Used and unused wastelands	466
	Official permissions for land reclamation	467
	Inviolable areas for wells and rivers	468
107	Land Reclamation	471
107.1	Definition, legality, and desirability	471
107.1.1	Legality	472
107.2	Reclaimable Wastelands	472
107.2.1	Detailed rulings by school	474
	Ḥanafī rulings	474
	Mālikī rulings	474
	Shāfiʿī rulings	474
	Ḥanbalī rulings	474
107.3	Means of Reclamation	475
107.3.1	Land enclosure	476
107.4	Reclamation Conditions	477
107.4.1	Reclaimer conditions	477
107.4.2	Reclaimed land conditions	478
107.4.3	Reclamation conditions	478
107.5	Consequences of land reclamation	480
107.5.1	Ownership of reclaimed land	480
107.5.2	The established tax	481
107.5.3	Inviolable boundaries	482
	Legality	482
	Ḥanafī boundary estimates	483
	Mālikī estimates	484
	Shāfiʿī estimates	485
	Ḥanbalī estimates	485
108	Inaccessible Land & Land Distribution	487
108.1	Inaccessible properties	487
108.1.1	Origins and meaning of <i>ḥimā</i>	487
108.1.2	Legality	488
108.1.3	Inaccessible land rulings	489
108.2	Land distribution (<i>al-ʿiqṭāʿ</i>)	490
108.2.1	Definition	490
108.2.2	Legality	490
108.2.3	Types of land and rights distribution	491
	1. wasteland	491
	2. Distribution of easement rights	492
	3. Distribution of mining rights	493
	Ḥanafī rulings	493
	Mālikī rulings	496
	Shāfiʿī and Ḥanbalī rulings	497

109 Easement Rights (<i>Huqūq Al-'Irtifāq</i>)	501
109.1 Definition and legal status	501
109.1.1 Definition	501
109.1.2 Easement rights vs. rights of usage	502
109.1.3 Juristic characterization	502
109.1.4 General legal status rulings	503
109.2 Types of Easement rights	504
109.2.1 Water rights (<i>ḥaqq al-shīrb</i>)	504
1. Water in containers	504
2. Water of wells and springs	505
3. Private rivers	506
4. Water of public rivers	507
General rulings on watering rights	507
Maintenance and grafting of rivers	510
109.2.2 Drinking rights	511
109.3 Water passage rights	513
109.4 Drainage rights	514
109.5 Passage rights	515
109.6 Vertical neighborhood rights	516
109.7 Horizontal neighborhood rights	517
XIX Share-cropping Arrangements	519
110 <i>Muzāra'a</i> or <i>Mukhābara</i>	521
110.1 Definition, legality, and cornerstones	521
110.1.1 Definition	521
110.1.2 Legality	522
110.1.3 Cornerstones and characteristics	523
110.2 <i>Muzāra'a</i> conditions	524
110.2.1 Contracting party conditions	524
110.2.2 Crop conditions	524
110.2.3 Plant conditions	525
110.2.4 Produce conditions	525
110.2.5 Agricultural land conditions	525
110.2.6 Object of contract conditions	526
110.2.7 Means of production conditions	526
110.2.8 Contract period conditions	526
Mālikī conditions	527
Shāfi'ī conditions	528
Ḥanbalī conditions	528
110.3 Types of <i>muzāra'a</i>	528
110.4 Legal status	529
110.4.1 Valid <i>muzāra'a</i> for the Ḥanafīs	529
110.4.2 Shāfi'ī status rulings	531
110.4.3 Defective <i>muzāra'a</i> rulings	532

110.4.4	Mālikī rulings	533
110.5	Termination and voiding	534
110.5.1	Expiration	534
110.5.2	Death of one party	534
110.5.3	Voiding based on a valid excuse	535
111	<i>Musāqāh</i> or <i>Mu^cāmalah</i>	537
111.1	Definition, legality, cornerstones, and source	537
111.1.1	Definition of <i>musāqāh</i>	537
111.1.2	Legality	537
111.1.3	Cornerstone	538
111.1.4	Eligible trees	539
	Ḥanafī rulings	539
	Mālikī rulings	539
	Ḥanbalī rulings	540
	Shāfi ^c ī rulings	540
111.1.5	<i>Musāqāh</i> vs. <i>muzāra^ca</i>	540
111.2	Contract conditions	541
111.2.1	Ḥanafī conditions	541
111.2.2	Non-Ḥanafī <i>musāqāh</i> cornerstones	543
	1. Contracting parties	543
	2. Object of watering and tending	543
	3. Fruits	543
	4. Work	544
	5. Contract language	544
112	Legal Status	547
112.1	Valid <i>musāqāh</i> rulings	547
112.1.1	Ḥanafī rulings	547
112.1.2	Mālikī rulings	548
112.1.3	Shāfi ^c ī and Ḥanbalī rulings	549
	Bindingness	549
	Worker possession	550
112.2	Defective <i>musāqāh</i> rulings	550
112.2.1	Ḥanafī rulings	550
112.2.2	Mālikī rulings	552
112.2.3	Shāfi ^c ī and Ḥanbalī rulings	553
112.3	Contract termination	554
112.3.1	Ḥanafī rulings	554
112.3.2	Mālikī rulings	555
112.3.3	Shāfi ^c ī rulings	555
112.3.4	Ḥanbalī rulings	556

113	<i>Mughārasa or Munāṣaba</i>	559
113.1	Definition	559
113.2	Legal status rulings	559
113.2.1	Ḥanafī rulings	560
113.2.2	Shāfiʿī rulings	561
113.2.3	Ḥanbalī rulings	561
113.2.4	Mālikī rulings	562
XX	Division Agreements (<i>Al-Qisma</i>)	565
114	Division of Physical Properties	567
114.1	Definition, legality, and cornerstones	567
114.1.1	Definition	567
114.1.2	Legality	568
114.1.3	Cornerstone and reason	569
114.1.4	Characteristics	569
	Ḥanafī views	569
	Mālikī views	570
	Shāfiʿī views	570
	Ḥanbalī views	570
114.2	Types of division	571
114.2.1	Ḥanafī classification	571
114.2.2	Mālikī classification	572
114.2.3	Shāfiʿī classification	572
114.2.4	Ḥanbalī classification	573
114.3	Contract conditions	574
114.3.1	Voluntary division conditions	574
114.3.2	Obligatory division conditions	576
	Ḥanafī conditions	576
	Shāfiʿī conditions	578
	Ḥanbalī conditions	578
	Mālikī conditions	579
114.4	Methods of division	579
	Monetary adjustment	580
114.4.1	Dividing homes	581
114.4.2	Land with buildings	581
114.4.3	Vacant land and a home, or a home and a shop	582
114.4.4	Vertically neighboring properties	582
114.4.5	Road division	583
	1. Easement rights	583
	2. Disagreement over road closure	583
	3. Disagreement over road size	584
	4. Road ownership	584
	5. Unequal shares in the road	584
114.5	The divider	584

114.5.1	Appointing a divider	584
114.5.2	Divider characteristics	585
114.5.3	Multiple dividers	586
114.5.4	Divider wages	586
114.6	Legal status	587
114.6.1	General rulings	587
	1. Bindingness	587
	2. Options in divisions	588
	3. Consequences of division	589
	4. Voiding divisions	589
114.6.2	Rulings pertaining to proofs	593
	1. Disputes over boundaries	593
	2. Assessing the extent of injustice	593
	3. Disputes over receipt of one's share	594
115	Dividing Usufruct	595
115.1	Definition and legality	595
	115.1.1 Definition of alternating use	595
	115.1.2 Legality of usufruct division	596
115.2	Object of usufruct division	596
115.3	Characteristics of usufruct division	597
115.4	Types of usufruct division	598
	115.4.1 Voluntary vs. obligatory usufruct division	598
	115.4.2 Spatial vs. temporal division of usufruct	599
	1. Temporal division of usufruct	599
	1-a. Definition	599
	1-b. Legality	599
	1-c. Juristic characterization	599
	1-d. Period specification	600
	1-e. Termination	600
	2. Spatial usufruct division	601
	2-a. Definition	601
	2-b. Legality	601
	2-c. Object of the contract	601
	2-d. Characterization	602
	2-e. Period	602
	2-f. Termination	602
115.5	Permitted actions after division	602
XXI	Usurpation and Destruction of Property	605
116	Usurpation and Its Status Rulings	609
116.1	Prohibition, definition, and demarcation	610
	116.1.1 Prohibition of usurpation	610
	116.1.2 Definition of usurpation	610

116.1.3	Consequences of juristic differences in demarcation	613
1.	Usurpation of immovable property	613
2.	Growth in usurped property	614
3.	Usufruct and output of usurped property	615
4.	Usurpation of non-valued properties	616
116.2	Legal status rulings	618
116.2.1	Sinfulness	619
116.2.2	Returning usurped properties	619
116.2.3	Compensation for perished usurped properties	620
1.	Methods of compensation	620
2.	Time of guaranty and compensation assessment	621
3.	Absolution of usurper guaranty	622
	Usurper entitlement after compensation?	623
4.	Changes in usurped property	624
5.	Diminution in usurped property	626
6.	Increase in usurped property	628
7.	Usurped property usufruct and output	632
8.	Disputes between usurper and owner	633
9.	Usurpation from the usurper	634
	Dealings of the usurper	635
	Usurped property expenses	637
117	Destruction of Property (<i>Al-'Iṭlāf</i>)	639
117.1	Definition, and establishment of guaranty	639
117.1.1	Leaving a store open	640
117.1.2	Opening a fat container	641
117.1.3	Terrorization	642
117.1.4	Detention and incarceration	642
117.2	Conditions for establishing guaranty	643
117.3	Means of compensation	646
XXII	Fighting an Assailant	647
118	Legality, stages and legal status	649
119	Conditions for Fighting an Assailant	651
120	Is Fighting the Assailant Required?	653
120.1	Self defense	653
121	Compensation for Fighting an Assailant	655
	Defending honor	657
	Peeking into a house	658
	Defending property	659

XXIII	Lost and Found (<i>Al-Luqatah</i> & <i>Al-Laqaṭ</i>)	661
122	Nature and Rulings for <i>Al-Laqaṭ</i>	665
122.1	Foster parenting	665
122.2	Guardianship	666
122.3	Presumed religion	666
122.4	Lineage considerations	667
123	Found Property (<i>Luqatah</i>)	669
123.1	Definition and legal status	669
123.1.1	Definition	669
123.1.2	Legal status rulings	669
1.	Preferability	669
2.	Guaranty	670
123.2	Types of <i>luqatah</i> , and modes of behavior	672
123.2.1	Types of <i>luqatah</i>	672
123.2.2	What to do with <i>luqatah</i>	674
1.	Methods of announcement	674
2.	Period of announcement	674
3.	Location of announcement	676
4.	Announcement and property expenses	676
5.	Returning the property to its owner	677
6.	Owning the found property	679
	Lost and found in the Ḥaram	680
XXIV	Missing Persons	683
124	Missing Persons	685
124.1	Definition	685
124.2	Declaration of life or death	685
124.3	Guardianship rights for the judge	686
124.4	Declaration of death	686
XXV	Racing and Athletic Competition	687
125	Racing & Competition (<i>Al-Sabq</i>)	689
125.1	Definition and legality	689
125.2	Permissibility conditions	690
126	<i>Al-munādala</i>	693
126.1	Definition and legality	693
126.2	<i>musābaqa</i> and <i>munādala</i> bindingness	694
126.3	Legal status	694
126.4	Conditions of validity	694

XXVI	Preemption (<i>Al-Shuf'a</i>)	697
127	Basics of Preemption (<i>al-shuf'a</i>)	701
127.1	Definition	701
127.2	Proof and reason for its legality	702
127.3	Wisdom in legalizing preemption	702
127.4	Cornerstone, and instigating factor	703
127.5	Legal status and characterization	703
128	Object of Preemption	705
128.1	Vertical neighborhood	705
128.2	Easement rights	706
128.3	Preemption rights in ships	707
128.4	Preemption in crops, fruits, and trees	708
129	The Preemptor	711
129.1	Definition	711
129.2	Prioritizing preemption rights	713
129.2.1	Allocation among multiple preemptors	714
129.2.1.1	1. Different priority-ranks	714
129.2.1.2	2. Equal priority-ranks	715
129.3	Absent preemptors	716
129.4	Voluntary dropping of preemption rights	716
130	Legal Status Rulings	719
130.1	Establishment of ownership	719
130.2	Compensation	720
130.2.1	The Price to be paid	720
130.2.2	Reduction or increase in the price	721
130.2.3	Price deferment	722
130.2.4	Predication on price payment	723
130.2.5	Entitlement of the preempted property	723
130.2.6	Disagreements over price	724
131	Preemption Conditions	725
131.1	Negation of seller ownership	726
131.2	Contract must be commutative	726
131.3	Validity of the contract	728
131.4	Preemptor ownership at sale time	729
131.5	Preemptor objects to the sale	731
	Legal tricks to drop preemption	731
132	Preemption procedures	733
132.1	Time of exercising preemption rights	733
132.2	Stages of requesting preemption	734
132.2.1	Immediate request to exercise preemption right	734

132.2.2	Second confirmation request	735
	Legal status of the request	736
132.2.3	Demanding to take the property	736
	Delay penalties	736
	Preemption requests for an interdicted person	737
	The judge's role	737
133	Changes in the Object of Preemption	739
133.1	Contracts and dealings	739
133.2	Growth in the object of preemption	740
	133.2.1 Natural growth	740
	133.2.2 Caused increase	741
133.3	Diminution in the object of preemption	742
134	Dropping Preemption Rights	745
134.1	Preemptor sale of his property	745
134.2	Voluntary dropping of the right	745
134.3	Guaranty of the price	747
134.4	Division of the object of preemption	748
134.5	Death of a preemptor	748